

[Second Reprint]

SENATE, No. 786

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

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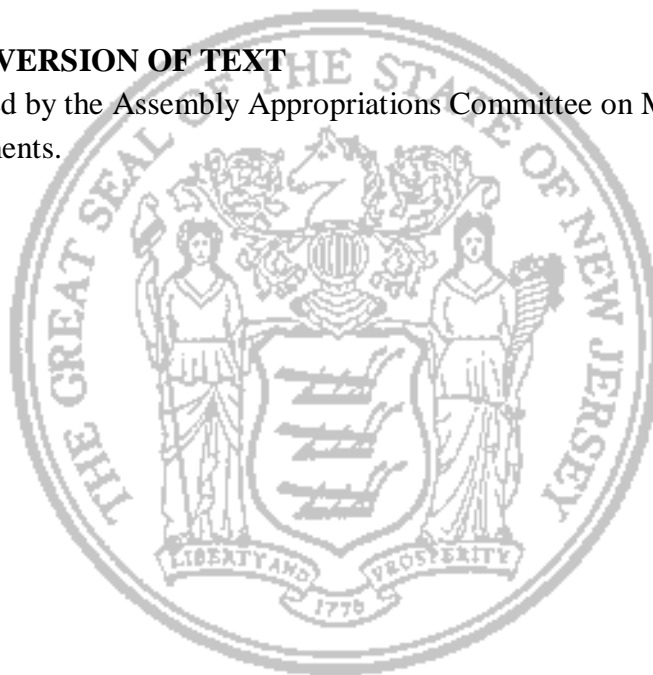
Senators Redd and Weinberg

SYNOPSIS

Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 10, 2008, with amendments.



(Sponsorship Updated As Of: 2/15/2008)

1 AN ACT providing benefits for family temporary disability leave,
2 amending R.S.43:21-4 and R.S.43:21-7, amending and
3 supplementing P.L.1948, c.110, and supplementing Title 54A of
4 the New Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
10 read as follows:

11 2. Purpose. This act shall be liberally construed as remedial
12 legislation enacted upon the following declarations of public policy
13 and legislative findings of fact:

14 The public policy of this State, already established, is to protect
15 employees against the suffering and hardship generally caused by
16 involuntary unemployment. But the **[unemployment compensation**
17 **law]** "unemployment compensation law" provides benefit payments
18 to replace wage loss caused by involuntary unemployment only so
19 long as an individual is "able to work, and is available for work,"
20 and fails to provide any protection against wage loss suffered
21 because of inability to perform the duties of a job interrupted by
22 nonoccupational illness, injury, or other disability of the individual
23 or of members of the individual's family. Nor is there any other
24 comprehensive and systematic provision for the protection of
25 working people against loss of earnings due to a nonoccupational
26 sickness [or], accident, or other disability.

27 The prevalence and incidence of nonoccupational sickness
28 **[and],** accident, and other disability among employed people is
29 greatest among the lower income groups, who either cannot or will
30 not voluntarily provide out of their own resources against the
31 hazard of an earnings loss caused by nonoccupational sickness **[or],**
32 accident, or other disability. Disabling sickness or accident occurs
33 throughout the working population at one time or another, and
34 approximately fifteen per centum (15%) of the number of people at
35 work may be expected to suffer disabling illness of more than one
36 week each year.

37 It **[has been]** was found, prior to the enactment of the
38 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
39 et seq.), that then existing voluntary plans for the payment of cash
40 sickness benefits **[cover]** covered less than one-half of the number
41 of working people of this State who **[are now]** were covered by the
42 **[unemployment compensation law,]** "unemployment compensation
43 law," and that even **[this]** that degree of voluntary protection

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 28, 2008.

²Assembly AAP committee amendments adopted March 10, 2008.

1 **【affords】** afforded uneven, unequal and sometimes uncertain
2 protection among the various voluntary benefit programs.

3 While the enactment of that law has provided stable protection
4 for New Jersey's disabled workers, very few workers are protected
5 from income losses caused by the need to take time off from work
6 to care for family members who are incapable of self-care,
7 including newborn and newly-adopted children. The growing
8 portion of middle-income families in which all adult family
9 members work, largely due to economic necessity, points to the
10 desperate need for replacement income when a working family
11 member must take time to care for family members who are unable
12 to take care of themselves. Moreover, the United States is the only
13 industrialized nation in the world which does not have a mandatory
14 workplace-based program for such income support. It is therefore
15 desirable and necessary to fill the gap in existing provisions for
16 protection against the loss of earnings caused by involuntary
17 unemployment, by extending such protection to meet the hazard of
18 earnings loss due to inability to work caused by nonoccupational
19 sickness **【or accident】**, accidents, or other disabilities of workers
20 and members of their families. Developing systems that help
21 families adapt to the competing interests of work and home not only
22 benefits workers, but also benefits employers by reducing employee
23 turnover and increasing worker productivity.

24 The foregoing facts and considerations require that there be a
25 uniform minimum program providing in a systematic manner for
26 the payment of reasonable benefits to replace partially such
27 earnings loss and to meet the continuing need for benefits where an
28 individual becomes disabled during unemployment or needs to care
29 for family members incapable of self-care. In order to maintain
30 consumer purchasing power, relieve the serious menace to health,
31 morals and welfare of the people caused by insecurity and the loss
32 of earnings, to reduce the necessity for public relief of needy
33 persons, to increase workplace productivity and alleviate the
34 enormous and growing stress on working families of balancing the
35 demands of work and family needs, and in the interest of the health,
36 welfare and security of the people of this State, such a system,
37 enacted under the police power, is hereby established, requiring the
38 payment of reasonable cash benefits to eligible individuals
39 **【suffering】** who are subject to accident or illness which is not
40 compensable under the **【workmen's】** worker's compensation law or
41 who need to care for family members incapable of self-care.

42 ²While the Legislature recognizes the pressing need for benefits
43 for workers taking leave to care for family members incapable of
44 self-care, it also finds that the need of workers for leave during their
45 own disability continues to be especially acute, as a disabled worker
46 has less discretion about taking time off from work than a worker
47 caring for a family member. Notwithstanding any interpretation of

1 law which may be construed as providing a worker with rights to
2 take action against an employer who fails or refuses to restore the
3 worker to employment after the worker's own disability, the
4 Legislature does not intend that the policy established by
5 P.L. , c. (C.) (pending before the Legislature as this bill) of
6 providing benefits for workers during periods of family temporary
7 disability leave to care for family members incapable of self-care be
8 construed as granting any worker an entitlement to be restored by
9 the employer to employment held by the worker prior to taking
10 family temporary disability leave or any right to take action, in tort,
11 or for breach of an implied provision of the employment agreement,
12 or under common law, against an employer who fails or refuses to
13 restore the worker to employment after the family temporary
14 disability leave, and the Legislature does not intend that the policy
15 of providing benefits during family temporary disability leave be
16 construed as increasing, reducing or otherwise modifying any
17 entitlement of a worker to return to employment or right of the
18 worker to take action under the provisions of the "Family Leave
19 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), or the federal "Family
20 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
21 seq.).²

22 Since the enactment of the "Temporary Disability Benefits Law,"
23 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
24 State temporary disability benefits plan, or "State plan," has proven
25 to be highly efficient and cost effective in providing temporary
26 disability benefits to New Jersey workers. The State plan
27 guarantees the availability of coverage for all employers, regardless
28 of experience, with low overhead costs and a rapid processing of
29 claims and appeals by knowledgeable, impartial public employees.
30 Consequently, the percentage of all employers using the State plan
31 increased from 64% in 1952 to 98% in 2006, while the percentage
32 of employees covered by the State plan increased from 28% to 83%.
33 A publicly-operated, nonprofit State plan is therefore indispensable
34 to achieving the goals of the "Temporary Disability Benefits Law,"
35 P.L.1948, c.110 (C.43:21-25 et seq.).

36 (cf: P.L.1948, c.110, s.2)

37
38 2. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
39 read as follows:

40 3. As used in this act, unless the context clearly requires
41 otherwise:

42 (a) (1) "Covered employer" means, with respect to whether an
43 employer is required to provide benefits during an employee's own
44 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
45 individual or type of organization, including any partnership,
46 association, trust, estate, joint-stock company, insurance company
47 or corporation, whether domestic or foreign, or the receiver, trustee
48 in bankruptcy, trustee or successor thereof, or the legal

1 representative of a deceased person, who is an employer subject to
2 the [chapter to which this act is a supplement, designated as the]
3 "unemployment compensation law" (R.S.43:21-1 et seq.), except
4 the State, its political subdivisions, and any instrumentality of the
5 State unless such governmental entity elects to become a covered
6 employer [under the "Temporary Disability Benefits Law"]
7 pursuant to paragraph (2) of this subsection (a); provided, however,
8 that commencing with the effective date of this act, the State of
9 New Jersey, including Rutgers, The State University, the University
10 of Medicine and Dentistry of New Jersey and the New Jersey
11 Institute of Technology, shall be deemed a covered employer, as
12 defined herein.

13 "Covered employer" means, after June 30, 2009, with respect to
14 whether the employer is an employer whose employees are eligible
15 for benefits during periods of family temporary disability leave
16 pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), and, after
17 December 31, 2008, whether employees of the employer are
18 required to make contributions pursuant to R.S.43:21-7(d)(1)(G)(ii),
19 any individual or type of organization, including any partnership,
20 association, trust, estate, joint-stock company, insurance company
21 or domestic or foreign corporation, or the receiver, trustee in
22 bankruptcy, trustee or successor thereof, or the legal representative
23 of a deceased person, who is an employer subject to the
24 "unemployment compensation law" (R.S.43:21-1 et seq.), including
25 any governmental entity or instrumentality which is an employer
26 under R.S.43:21-19(h)(5), notwithstanding that the governmental
27 entity or instrumentality has not elected to be a covered employer
28 pursuant to paragraph (2) of this subsection (a).

29 (2) Any governmental entity or instrumentality which is an
30 employer under R.S.43:21-19(h)(5) may, with respect to the
31 provision of benefits during an employee's own disability pursuant
32 to P.L.1948, c.110 (C.43:21-25 et seq.), elect to become a "covered
33 employer" under this subsection beginning with the date on which
34 its coverage under [subsection 19(h)(5)] R.S.43:21-19(h)(5) begins
35 or as of January 1 of any year thereafter by filing written notice of
36 such election with the division within at least 30 days of the
37 effective date. Such election shall remain in effect for at least two
38 full calendar years and may be terminated as of January 1 of any
39 year thereafter by filing with the division a written notice of
40 termination at least 30 days prior to the termination date.

41 (b) (1) "Covered individual" means, with respect to whether an
42 individual is eligible for benefits during an individual's own
43 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
44 person who is in employment, as defined in the [chapter to which
45 this act is a supplement], "unemployment compensation law"
46 (R.S.43:21-1 et seq.) for which the individual is entitled to
47 remuneration from a covered employer, or who has been out of such

1 employment for less than two weeks[. However,], except that a
2 "covered individual" who is employed by the State of New Jersey,
3 including Rutgers, The State University, the University of Medicine
4 and Dentistry of New Jersey and the New Jersey Institute of
5 Technology, or by any governmental entity or instrumentality
6 which elects to become a "covered employer" pursuant to this
7 amendatory act, shall not be eligible to receive any benefits under
8 the "Temporary Disability Benefits Law" until such individual has
9 exhausted all sick leave accumulated as an employee in the
10 classified service of the State or accumulated under terms and
11 conditions similar to classified employees or accumulated under the
12 terms and conditions pursuant to the laws of this State or as the
13 result of a negotiated contract with any governmental entity or
14 instrumentality which elects to become a "covered employer."

15 "Covered individual" shall not mean, with respect to whether an
16 individual is eligible for benefits during an individual's own
17 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
18 member of the Division of State Police in the Department of Law
19 and Public Safety.

20 (2) "Covered individual" means, with respect to whether an
21 individual is eligible for benefits during the individual's period of
22 family temporary disability leave pursuant to P.L.1948, c.110
23 (C.43:21-25 et seq.), any individual who is in employment, as
24 defined in the "unemployment compensation law" (R.S.43:21-1 et
25 seq.), for which the individual is entitled to remuneration from a
26 covered employer, or who has been out of that employment for less
27 than two weeks.

28 (c) "Division" or "commission" means the Division of
29 [Unemployment and] Temporary Disability Insurance of the
30 Department of Labor and Workforce Development, and any
31 transaction or exercise of authority by the director of the division
32 shall be deemed to be performed by the division.

33 (d) "Day" shall mean a full calendar day beginning and ending
34 at midnight.

35 (e) "Disability" shall mean such disability as is compensable
36 under section 5 of this act.

37 (f) "Disability benefits" shall mean any cash payments which
38 are payable to a covered individual for all or part of a period of
39 disability pursuant to this act.

40 (g) "Period of disability" with respect to any covered individual
41 shall mean [the]:

42 (1) The entire period of time during which the covered
43 individual is continuously and totally unable to perform the duties
44 of [his] the covered individual's employment because of the
45 covered individual's own disability, except that two periods of
46 disability due to the same or related cause or condition and
47 separated by a period of not more than 14 days shall be considered
48 as one continuous period of disability; provided the individual has

1 earned wages during such 14-day period with the employer who
2 was the individual's last employer immediately preceding the first
3 period of disability: and

4 (2) On or after July 1, 2009, the entire period of family
5 temporary disability leave taken from employment by the covered
6 individual.

7 (h) "Wages" shall mean all compensation payable by covered
8 employers to covered individuals for personal services, including
9 commissions and bonuses and the cash value of all compensation
10 payable in any medium other than cash.

11 (i) (1) (Deleted by amendment, P.L.2001, c.17).

12 (2) (Deleted by amendment, P.L.2001, c.17).

13 (3) "Base week" with respect to periods of disability
14 commencing on or after October 1, 1985 and before January 1,
15 2001, means any calendar week during which **[an]** a covered
16 individual earned in employment from a covered employer
17 remuneration equal to not less than 20% of the Statewide average
18 weekly **[remuneration]** wage determined under subsection (c) of
19 R.S.43:21-3, which shall be adjusted to the next higher multiple of
20 \$1.00 if not already a multiple thereof.

21 (4) "Base week" with respect to periods of disability
22 commencing on or after January 1, 2001, means any calendar week
23 of **[an]** a covered individual's base year during which the covered
24 individual earned in employment from a covered employer
25 remuneration not less than an amount 20 times the minimum wage
26 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
27 October 1 of the calendar year preceding the calendar year in which
28 the benefit year commences, which amount shall be adjusted to the
29 next higher multiple of \$1.00 if not already a multiple thereof,
30 except that if in any calendar week an individual subject to this
31 paragraph is in employment with more than one employer, the
32 covered individual may in that calendar week establish a base week
33 with respect to each of the employers from whom the covered
34 individual earns remuneration equal to not less than the amount
35 defined in this paragraph during that week.

36 (j) (1) "Average weekly wage" means the amount derived by
37 dividing a covered individual's total wages earned from the
38 individual's most recent covered employer during the base weeks in
39 the eight calendar weeks immediately preceding the calendar week
40 in which a period of disability commenced, by the number of such
41 base weeks.

42 (2) If **[this]** the computation in paragraph (1) of this subsection
43 (j) yields a result which is less than the individual's average weekly
44 earnings in employment**],** as defined in the chapter to which this act
45 is a supplement,**]** with all covered employers during the base weeks
46 in such eight calendar weeks, then the average weekly wage shall be
47 computed on the basis of earnings from all covered employers

1 during the **[eight]** base weeks in the eight calendar weeks
2 immediately preceding the week in which the period of disability
3 commenced.

4 (3) For periods of disability commencing on or after July 1,
5 2009, if the computations in paragraphs (1) and (2) of this
6 subsection (j) both yield a result which is less than the individual's
7 average weekly earnings in employment with all covered employers
8 during the base weeks in the 26 calendar weeks immediately
9 preceding the week in which the period of disability commenced,
10 then the average weekly wage shall, upon a written request to the
11 department by the individual on a form provided by the department,
12 be computed by the department on the basis of earnings from all
13 covered employers of the individual during the base weeks in those
14 26 calendar weeks, and, in the case of a claim for benefits from a
15 private plan, that computation of the average weekly wage shall be
16 provided by the department to the individual and the individual's
17 employer.

18 When determining the "average weekly wage" with respect to a
19 period of family temporary disability leave for an individual who
20 has a period of family temporary disability immediately after the
21 individual has a period of disability for the individual's own
22 disability, the period of disability is deemed to have commenced at
23 the beginning of the period of disability for the individual's own
24 disability, not the period of family temporary disability.

25 (k) "Child" means a biological, adopted, or foster child,
26 stepchild or legal ward of a covered individual, child of a domestic
27 partner of the covered individual, or child of a civil union partner of
28 the covered individual, who is less than 19 years of age or is 19
29 years of age or older but incapable of self-care because of mental or
30 physical impairment.

31 (l) "Domestic partner" means a domestic partner as defined in
32 section 3 of P.L.2003, c.246 (C.26:8A-3).

33 (m) "Civil union" means a civil union as defined in section 2 of
34 P.L.2006, c.103 (C.37:1-29).

35 (n) "Family member" means a child, spouse, domestic partner,
36 civil union partner or parent of a covered individual.

37 (o) "Family temporary disability leave" means leave taken by a
38 covered individual from work with an employer to (1) participate in
39 the providing of care², as defined in the "Family Leave Act,"
40 P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted
41 pursuant to that act,² for a family member of the individual made
42 necessary by a serious health condition of the family member²],
43 including providing psychological comfort and arranging third party
44 care for the family member]²; or (2) be with a child during the first
45 12 months after the child's birth, if the individual, or the domestic
46 partner or civil union partner of the individual, is a biological parent
47 of the child, or the first 12 months after the placement of the child

1 for adoption with the individual. "Family temporary disability
2 leave" does not include any period of time in which a covered
3 individual is paid benefits pursuant to P.L.1948, c.110 (C.43:21-25
4 et seq.) because the individual is unable to perform the duties of the
5 individual's employment due to the individual's own disability.

6 (p) "Health care provider" means a health care provider as
7 defined in the "Family Leave Act", P.L.1989, c.261 (C.34:11B-1 et
8 seq., and any regulations adopted pursuant to that act.

9 (q) "Parent of a covered individual" means a biological parent,
10 foster parent, adoptive parent, or stepparent of the covered
11 individual or a person who was a legal guardian of the covered
12 individual when the covered individual was a child.

13 (r) "Placement for adoption" means the time when a covered
14 individual adopts a child or becomes responsible for a child pending
15 adoption by the covered individual.

16 (s) "Serious health condition" means an illness, injury,
17 impairment or physical or mental condition which requires:
18 inpatient care in a hospital, hospice, or residential medical care
19 facility; or continuing medical treatment or continuing supervision
20 by a health care provider.

21 (t) "12-month period" means, with respect to an individual who
22 establishes a valid claim for disability benefits during a period of
23 family temporary disability leave, the 365 consecutive days that
24 begin with the first day that the individual first establishes the
25 claim.

26 (cf: P.L.2001, c.17, s.3)

27
28 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
29 read as follows:

30 5. Compensable disability. **[Disability]** (a) In the case of the
31 disability of a covered individual, disability shall be compensable
32 subject to the limitations of this act**[, where a]** if the disability is
33 the result of the covered individual **[suffers any]** suffering an
34 accident or sickness not arising out of and in the course of the
35 individual's employment or if so arising not compensable under the
36 workers' compensation law **[(Title 34 of the Revised Statutes)]**
37 R.S.34:15-1 et seq., and resulting in the individual's total inability
38 to perform the duties of employment.

39 (b) In the case of an individual taking family temporary
40 disability leave, the leave shall be compensable subject to the
41 limitations of P.L. c. (C.)(pending before the
42 Legislature as this bill).

43 (cf: P.L.1980, c.90, s.13)

44
45 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
46 read as follows:

47 11. (a) If the division is furnished satisfactory evidence that a
48 majority of the employees covered by an approved private plan

1 have made election in writing to discontinue such plan, the division
2 shall withdraw its approval of such plan effective at the end of the
3 calendar quarter next succeeding that in which such evidence is
4 furnished. Upon receipt of a petition therefor signed by not less
5 than 10% of the employees covered by an approved private plan,
6 the division shall require the employer upon 30 days' written notice
7 to conduct an election by ballot in writing to determine whether or
8 not a majority of the employees covered by such private plan favor
9 discontinuance thereof; provided, that such election shall not be
10 required more often than once in any 12-month period.

11 (b) Unless sooner permitted, for cause, by the division, no
12 approved private plan shall be terminated by an employer, in whole
13 or in part, until at least 30 days after written notice of intention so
14 to do has been given by the employer to the division and after
15 notices are conspicuously posted so as reasonably to assure their
16 being seen, or after individual notices are given to the employees
17 concerned.

18 (c) The division may, after notice and hearing, withdraw its
19 approval of any approved private plan if it finds that there is danger
20 that the benefits accrued or to accrue will not be paid, that the
21 security for such payment is insufficient, or for other good cause
22 shown. No employer, and no union or association representing
23 employees, shall so administer or apply the provisions of an
24 approved private plan as to derive any profit therefrom. The
25 division may withdraw its approval from any private plan which is
26 administered or applied in violation of this provision.

27 (d) No termination of an approved private plan shall affect the
28 payment of benefits, in accordance with the provisions of the plan,
29 to **[disabled]** employees whose period of disability commenced
30 prior to the date of termination. Employees who have ceased to be
31 covered by an approved private plan because of its termination
32 shall, subject to the limitations and restrictions of this act, become
33 eligible forthwith for benefits from the State Disability Benefits
34 Fund for a period of disability commencing after such cessation,
35 and contributions with respect to their wages shall immediately
36 become payable as otherwise provided by law. Any withdrawal of
37 approval of a private plan pursuant to this section shall be
38 reviewable by writ of certiorari or by such other procedure as may
39 be provided by law. With respect to a period of family temporary
40 disability leave immediately after the individual has a period of
41 disability during the individual's own disability, the period of
42 disability is deemed, for the purposes of determining whether the
43 period of disability commenced prior to the date of the termination,
44 to have commenced at the beginning of the period of disability
45 during the individual's own disability, not the period of family
46 temporary disability leave.

47 (e) Anything in this act to the contrary notwithstanding, a
48 covered employer who, under an approved private plan, is

1 providing benefits at least equal to those required by the State plan,
2 may modify the benefits under the private plan so as to provide
3 benefits not less than the benefits required by the State plan[;
4 provided, that individuals]. Individuals covered under [such] a
5 private plan shall not be required to contribute to [such] the plan at
6 a rate exceeding 3/4 of 1% of the amount of "wages" established for
7 any calendar year under the provisions of R.S.43:21-7(b) prior to
8 January 1, 1975, and 1/2 of 1% for calendar years beginning on or
9 after January 1, 1975. For a calendar year beginning on or after
10 January 1, 2009: an employer providing a private plan only for
11 benefits for employees during their own disabilities may require the
12 employees to contribute to the plan at a rate not exceeding 0.5% of
13 the amount of "wages" established for the calendar year under the
14 provisions of R.S.43:21-7(b); an employer providing a private plan
15 only for benefits for employees during periods of family temporary
16 disability may require the individuals covered by the private plan to
17 contribute an amount not exceeding the amount the individuals
18 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
19 providing a private plan both for benefits for employees during their
20 own disabilities and for benefits during periods of family temporary
21 disability may require the employees to contribute to the plan at a
22 rate not exceeding 0.5% of the amount of "wages" established for
23 the calendar year under the provisions of R.S.43:21-7(b) plus an
24 additional amount not exceeding the amount the individuals would
25 pay pursuant to R.S.43:21-7(d)(1)(G)(ii). Notification of [such]
26 the proposed modification shall be given by the employer to the
27 division and to the individuals covered under [such] the plan[, on
28 or before May 1, 1975].

29 (cf: P.L.1974, c.86, s.8)

30
31 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
32 read as follows:

33 14. Duration of benefits.

34 With respect to [periods] any period of disability for an
35 individual's own disability commencing on or after January 1,
36 1953, disability benefits, not in excess of an individual's maximum
37 benefits, shall be payable with respect to disability which
38 commences while a person is a covered individual under the
39 Temporary Disability Benefits Law, and shall be payable with
40 respect to the eighth consecutive day of such disability and each
41 day thereafter that such period of disability continues; and if
42 benefits shall be payable for three consecutive weeks with respect
43 to any period of disability commencing on or after January 1, 1968,
44 then benefits shall also be payable with respect to the first seven
45 days thereof. With respect to any period of family temporary
46 disability leave commencing on or after July 1, 2009 and while an
47 individual is a covered individual, family temporary disability

benefits, not in excess of the individual's maximum benefits, shall be payable with respect to the first day of leave taken after the first one-week period following the commencement of the period of family temporary disability leave and each subsequent day of leave during that period of family temporary disability leave; and if benefits become payable on any day after the first three weeks in which leave is taken, then benefits shall also be payable with respect to any leave taken during the first one-week period in which leave is taken. The maximum total benefits payable to any eligible individual for any period of disability of the individual commencing on or after January 1, 1968, shall be either 26 times his weekly benefit amount or 1/3 of his total wages in his base year, whichever is the lesser; provided that such maximum amount shall be computed in the next lower multiple of \$1.00 if not already a multiple thereof. The maximum total benefits payable to any eligible individual for any period of family temporary disability leave commencing on or after July 1, 2009, shall be six times the individual's weekly benefit amount or 1/3 of his total wages in his base year, whichever is the lesser; provided that the maximum amount shall be computed in the next lower multiple of \$1.00, if not already a multiple thereof.

(cf: P.L.1984, c.104, s.2)

6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), no benefits shall be payable under the State plan to any **[person]** individual:

(a) for the first seven consecutive days of each period of disability; except that:

(1) if benefits shall be payable for three consecutive weeks with respect to any period of disability **[commencing on or after January 1, 1968]**, then benefits shall also be payable with respect to the first seven days thereof;

(2) in the case of intermittent leave in a single period of family temporary disability leave taken to provide care for a family member of the individual with a serious health condition, benefits shall be payable with respect to the first day of leave taken after the first one-week period following the commencement of the period of family temporary disability leave and each subsequent day of leave during that period of family temporary disability leave; and if benefits become payable on any day after the first three weeks in which leave is taken, then benefits shall also be payable with respect to any leave taken during the first one-week period in which leave is taken, and

(3) in the case of an individual taking family temporary disability leave immediately after the individual has a period of

1 disability for the individual's own disability, there shall be no
2 waiting period between the period of the individual's own disability
3 and the period of family temporary disability.

4 (b) (1) for more than 26 weeks with respect to any one period of
5 disability of the individual;

6 (2) for more than six weeks with respect to any one period of
7 family temporary disability leave, or more than 42 days with respect
8 to any one period of family temporary disability leave taken on an
9 intermittent basis to provide care for a family member of the
10 individual with a serious health condition; and

11 (3) for more than six weeks of family temporary disability leave
12 during any 12-month period, or more than 42 days of family
13 temporary disability leave taken during any 12-month period, on an
14 intermittent basis to provide care for a family member of the
15 individual with a serious health condition, including family
16 temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while
17 unemployed.

18 (c) for any period of disability which did not commence while
19 the claimant was a covered individual;

20 (d) for any period of disability of a claimant during which the
21 claimant is not under the care of a legally licensed physician,
22 dentist, optometrist, podiatrist, practicing psychologist, advanced
23 practice nurse, or chiropractor, who, when requested by the
24 division, shall certify within the scope of the practitioner's practice,
25 the disability of the claimant, the probable duration thereof, and,
26 where applicable, the medical facts within the practitioner's
27 knowledge or for any period of family temporary disability leave
28 for a serious health condition of a family member of the claimant,
29 'during which' the family member is not receiving inpatient care in
30 a hospital, hospice, or residential medical care facility or is not
31 subject to continuing medical treatment or continuing supervision
32 by a health care provider, who, when requested by the division,
33 shall certify within the scope of the provider's practice, the serious
34 health condition of the family member, the probable duration
35 thereof, and, where applicable, the medical facts within the
36 provider's knowledge;

37 (e) (Deleted by amendment, P.L.1980, c.90.)

38 (f) for any period of disability due to willfully and intentionally
39 self-inflicted injury, or to injury sustained in the perpetration by the
40 claimant of a crime of the first, second, '[or]' third 'or fourth'
41 degree 'or for any period during which a covered individual would
42 be disqualified for unemployment compensation benefits for gross
43 misconduct under subsection (b) of R.S.43:21-5';

44 (g) for any period during which the claimant performs any work
45 for remuneration or profit;

46 (h) in a weekly amount which together with any remuneration
47 the claimant continues to receive from the employer would exceed
48 regular weekly wages immediately prior to disability;

1 (i) for any period during which a covered individual would be
2 disqualified for unemployment compensation benefits under
3 subsection (d) of R.S.43:21-5, unless the disability commenced
4 prior to such disqualification; and there shall be no other cause of
5 disqualification or ineligibility to receive disability benefits
6 hereunder except as may be specifically provided in this act.
7 (cf: P.L.2007, c.322, s.1)

8
9 7. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to
10 read as follows:

11 17. (a) (Deleted by amendment, P.L.1975, c.355.)

12 (b) (Deleted by amendment, P.L.2001, c.17).

13 (c) (Deleted by amendment, P.L.2001, c.17).

14 (d) (1) **【**With respect to periods of disability commencing on or
15 after October 1, 1984 and before January 1, 2001, no individual
16 shall be entitled to benefits under this act unless the individual has
17 established at least 20 base weeks within the 52 calendar weeks
18 preceding the week in which the individual's period of disability
19 commenced, or, in the alternative, the individual has earned twelve
20 times the Statewide average weekly remuneration paid to workers,
21 as determined under subsection (c) of R.S. 43:21-3, raised to the
22 next higher multiple of \$100.00, if not already a multiple thereof, or
23 more within the 52 calendar weeks preceding the week in which the
24 period of disability commenced, nor shall the individual be entitled
25 to benefits unless he shall duly file notice and proof of claim, and
26 submit to such reasonable examinations as are required by this act
27 and the rules and regulations of the division.**】** (Deleted by
28 amendment, P.L. , c. .)(pending before the Legislature as this
29 bill)

30 (2) With respect to periods of disability commencing on or after
31 January 1, 2001, no individual shall be entitled to benefits under
32 this act unless the individual has, within the 52 calendar weeks
33 preceding the week in which the individual's period of disability
34 commenced, established at least 20 base weeks or earned not less
35 than 1,000 times the minimum wage in effect pursuant to section 5
36 of P.L.1996, c.113 (C.34:11-56a4) on October 1 of the calendar
37 year preceding the calendar year in which the disability commences,
38 which amount shall be adjusted to the next higher multiple of
39 \$100.00, if not already a multiple thereof.

40 (e) With respect to a period of family temporary disability leave
41 for an individual who has a period of family temporary disability
42 immediately after the individual has a period of disability for the
43 individual's own disability, the period of disability is deemed, for
44 the purposes of specifying the time of the 52-week period in which
45 base weeks or earnings are required to be established for benefit
46 eligibility pursuant to this subsection (e), to have commenced at the

1 beginning of the period of disability for the individual's own
2 disability, not the period of family temporary disability.

3 (cf: P.L.2001, c.17, s.4)

4
5 8. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to
6 read as follows:

7 31. Penalties. (a) Whoever makes a false statement or
8 representation knowing it to be false or knowingly fails to disclose
9 a material fact, and each such false statement or representation or
10 failure to disclose a material fact shall constitute a separate offense,
11 to obtain or increase any disability benefit under the State plan or
12 an approved private plan, or for a disability during unemployment,
13 including any benefit during a period of family temporary disability
14 leave, either for himself or for any other person, shall be liable for a
15 fine of ²~~twenty dollars (\$20.00)]~~ \$250² to be paid to the division.
16 Upon refusal to pay such fine, the same shall be recovered in a civil
17 action by the division in the name of the State of New Jersey. If in
18 any case liability for the payment of a fine as aforesaid shall be
19 determined, any person who shall have received any benefits
20 hereunder by reason of the making of such false statements or
21 representations or failure to disclose a material fact, shall not be
22 entitled to any benefits under this act for any disability occurring
23 prior to the time he shall have discharged his liability hereunder to
24 pay such fine.

25 (b) Any employer or any officer or agent of any employer or
26 any other person who makes a false statement or representation
27 knowing it to be false or knowingly fails to disclose a material fact,
28 to prevent or reduce the benefits to any person entitled thereto, or to
29 avoid becoming or remaining subject hereto or to avoid or reduce
30 any contribution or other payment required from an employer under
31 this act, or who willfully fails or refuses to make any such
32 contributions or other payment or to furnish any reports required
33 hereunder or to produce or permit the inspection or copying of
34 records as required hereunder, shall be liable for a fine of twenty
35 dollars ²~~(\$20.00)]~~ \$250² to be paid to the division. Upon refusal to
36 pay such fine, the same shall be recovered in a civil action by the
37 division in the name of the State of New Jersey.

38 (c) Any person who shall willfully violate any provision hereof
39 or any rule or regulation made hereunder, for which a fine is neither
40 prescribed herein nor provided by any other applicable statute, shall
41 be liable to a fine of ²~~fifty dollars (\$50.00)]~~ \$500² to be paid to
42 the division. Upon the refusal to pay such fine, the same shall be
43 recovered in a civil action by the division in the name of the State
44 of New Jersey.

45 (d) Any person, employing unit, employer or entity violating
46 any of the provisions of the above subsections with intent to
47 defraud the division shall in addition to the penalties hereinbefore
48 described, be liable for each offense upon conviction before the

1 Superior Court or any municipal court for a fine not to exceed
2 ² [two hundred fifty dollars (\$250.00)] \$1,000² or by imprisonment
3 for a term not to exceed ninety days, or both, at the discretion of the
4 court. The fine upon conviction shall be payable to the State
5 disability benefits fund of the division. Any penalties imposed by
6 this subsection shall be in addition to those otherwise prescribed in
7 this chapter (R.S.43:21-1 et seq.).
8 (cf: P.L.1997, c.318, s.1)

9
10 9. Section 2 of P.L.1997, c.318 (C.43:21-55.1) is amended to
11 read as follows:

12 2. (a) If it is determined by the division that an individual for
13 any reason has received, under the State plan, an approved private
14 plan or for a disability during unemployment, any sum of disability
15 benefits, including benefits during a period of family temporary
16 disability leave, to which the individual was not entitled, the
17 individual shall, except as provided in subsection (b) of this section,
18 be liable to repay the sum in full. Except as provided in subsection
19 (b) of this section, the sum that the individual is liable to repay shall
20 be deducted from future benefits payable to the individual under
21 this act (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or
22 shall be repaid by the individual to the division, the employer or the
23 insurer, and that sum shall be collectible in the manner provided for
24 by law, including, but not limited to, the filing of a certificate of
25 debt with the Clerk of the Superior Court of New Jersey; except that
26 no individual who does not knowingly misrepresent or withhold any
27 material fact to obtain benefits shall be liable for any repayments or
28 deductions against future benefits unless notified before four years
29 have elapsed from the time the benefits in question were paid. The
30 division shall promptly notify the individual by mail of the
31 determination and the reasons for the determination. Unless the
32 individual files an appeal of the determination within 20 calendar
33 days following the receipt of the notice, or, within 24 days after the
34 notice was mailed to the individual's last known address, the
35 determination shall be final.

36 (b) If the individual received the overpayment of benefits
37 because of error made by the division, the employer or the
38 physician, and if the individual did not knowingly misrepresent or
39 withhold any material fact to obtain the benefits, the following
40 limits shall apply:

41 (1) The amount withheld from any subsequent benefit check
42 shall be an amount not greater than 50% of the amount of the check;
43 and

44 (2) All repayments of the overpayments by the individual or the
45 estate of the individual shall be waived if the individual is deceased
46 or permanently disabled.

1 Any demand for repayment from an individual pursuant to this
2 subsection shall include an explanation of the provisions of this
3 subsection.

4 (cf: P.L.1997, c.318, s.2)

5

6 10. (New section) a. Family temporary disability leave shall be
7 compensable subject to the limitations of P.L.____, c.____ (C.____)
8 (pending before the Legislature as this bill) for any period of family
9 temporary disability leave taken by a covered individual which
10 commences after June 30, 2009.

11 b. An individual shall not simultaneously receive disability
12 benefits for family temporary disability leave and any other
13 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.)
14 or any unemployment compensation.

15 c. The employer of an individual may¹, notwithstanding any
16 other provision of law, including the provisions of N.J.S.18A:30-1
17 et seq.,¹ permit or require the individual, during a period of family
18 temporary disability leave, to use any paid sick leave, vacation time
19 or other leave at full pay made available by the employer before the
20 individual is eligible for disability benefits for family temporary
21 disability leave pursuant to P.L.____, c.____(C.____) (pending before
22 the Legislature as this bill) ¹['this act'], except that the employer
23 may not require the individual to use more than two weeks worth of
24 leave at full pay. The employer may also have the total number of
25 days worth of disability benefits paid pursuant to
26 P.L.____, c.____(C.____) (pending before the Legislature as this bill) to
27 the individual during a period of family temporary disability leave
28 reduced by the number of days of leave at full pay paid by the
29 employer to the individual during that period. If the employer
30 requires the individual to use leave at full pay, the employee shall
31 be permitted to take that fully-paid leave during the waiting period
32 required pursuant to subsection (a) of section 15 of P.L.1948, c.110
33 (C.43:21-39). Nothing in P.L.____, c.____(C.____) (pending before the
34 Legislature as this bill) shall be construed as nullifying any
35 provision of an existing collective bargaining agreement or
36 employer policy, or preventing any new provision of a collective
37 bargaining agreement or employer policy, which provides
38 employees more generous leave or gives employees greater rights to
39 select which kind of leave is used or select the order in which the
40 different kinds of leave are used. Nothing in P.L.____, c.____(C.____)
41 (pending before the Legislature as this bill) shall be construed as
42 preventing an employer from providing more generous benefits than
43 are provided under ¹['this act']¹ P.L.____, c.____(C.____) (pending before
44 the Legislature as this bill) or providing benefits which supplement
45 the benefits provided under P.L.____, c.____(C.____) (pending before the
46 Legislature as this bill) for some or all of the employer's
47 employees.

1 d. An individual who is entitled to leave under the provisions
 2 of the “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.) or
 3 the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3
 4 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
 5 family temporary disability leave pursuant to P.L. __, c. __ (C. __)
 6 (pending before the Legislature as this bill) concurrently with leave
 7 taken pursuant to the “Family Leave Act,” P.L.1989, c.261
 8 (C.34:11B-1 et seq.) or the federal “Family and Medical Leave Act
 9 of 1993,” Pub.L.103-3 (29 U.S.C. s.2601 et seq.). Nothing in
 10 P.L. __, c. __ (C. __) (pending before the Legislature as this bill)
 11 shall be construed to grant an employee any entitlement to be
 12 restored by the employer to employment held by the employee prior
 13 to taking family ‘temporary disability leave’¹ or any right to take
 14 action against an employer who refuses to restore the employee to
 15 employment after the leave. Nothing in P.L. __, c. __ (C. __)
 16 (pending before the Legislature as this bill) shall be construed to
 17 increase, reduce or otherwise modify any entitlement of an
 18 employee to return to employment or right of the employee to take
 19 action under the provisions of the “Family Leave Act,” P.L.1989,
 20 c.261 (C.34:11B-1 et seq.) the federal “Family and Medical Leave
 21 Act of 1993,” Pub.L.103-3 (29 U.S.C. s.2601 et seq.). ²If an
 22 employee receives benefits for family temporary disability leave
 23 pursuant to P.L. __, c. __ (C. __) (pending before the Legislature as
 24 this bill) with respect to employment with an employer who is not
 25 an employer as defined in the “Family Leave Act,” P.L.1989, c.261
 26 (C.34:11B-1 et seq.) and that employer fails or refuses to restore the
 27 employee to employment after the period of family temporary
 28 disability leave, that failure or refusal shall not be a wrongful
 29 discharge in violation of a clear mandate of public policy, and the
 30 employee shall not have a cause of action against that employer, in
 31 tort, or for breach of an implied provision of the employment
 32 agreement, or under common law, for that failure or refusal.²

33 e. An employee taking family temporary disability leave or an
 34 employer from whom the employee is taking the leave shall have
 35 the same right to appeal a determination of a benefit for the family
 36 temporary disability leave made under ‘[this act] P.L. __, c. __
 37 (C. __) (pending before the Legislature as this bill)’¹ as
 38 an employee or employer has to appeal a determination of a benefit
 39 for the disability of the employee under the “Temporary Disability
 40 Benefits Law,” P.L.1948, c.110 (‘[C.43:21-26] C.43:21-25’¹ et
 41 seq.), and any regulations adopted pursuant to the “Temporary
 42 Disability Benefits Law,” P.L.1948, c.110 (‘[C.43:21-26] C.43:21-
 43 25’¹ et seq.).

44 f. In the event of a period of family temporary disability leave
 45 of any individual covered under the State plan, the employer shall,
 46 not later than the ninth day of the period of family temporary
 47 disability leave, including any waiting period or time in which the

1 employer provides sick leave, vacation or other fully paid leave,
2 issue to the individual and to the division printed notices on
3 division forms containing the name, address and Social Security
4 number of the individual, such wage information as the division
5 may require to determine the individual's eligibility for benefits,
6 including any sick pay, vacation or other fully paid time off
7 provided by the employer during the period of family temporary
8 disability leave, and the name, address, and division identity
9 number of the employer. Not later than 30 days after the
10 commencement of the period of family temporary disability leave
11 for which the notice is furnished by the employer, the individual
12 shall furnish to the division a notice and claim for family temporary
13 disability leave benefits. Upon the submission of the notices by the
14 employer and the individual, the division may issue benefit
15 payments. In the case of family temporary disability leave taken to
16 care for a family member with a serious health condition, the
17 benefits may be paid for periods not exceeding three weeks pending
18 the receipt of the certification required pursuant to subsection b. of
19 section 11 of P.L. __, c. __ (C. __) (pending before the Legislature
20 as this bill). Failure to furnish notice and certification in the
21 manner above provided shall not invalidate or reduce any claim if it
22 shall be shown to the satisfaction of the division not to have been
23 reasonably possible to furnish the notice and certification and that
24 the notice and certification was furnished as soon as reasonably
25 possible.

26 g. Each covered employer shall conspicuously post
27 notification, in a place or places accessible to all employees in each
28 of the employer's workplaces, in a form issued in regulation
29 promulgated by the commissioner, of each covered employee's
30 rights regarding benefits payable pursuant to this section. The
31 employer shall also provide each employee of the employer with a
32 written copy of the notification: (1) not later than 30 days after the
33 form of the notification is issued by regulation; (2) at the time of the
34 employee's hiring, if the employee is hired after the issuance; (3)
35 whenever the employee notifies the employer that the employee is
36 taking time off for circumstances under which the employee is
37 eligible for benefits pursuant to this section; and (4) at any time,
38 upon the first request of the employee.

39

40 11. (New section) a. In the case of a family member who has a
41 serious health condition, the benefits for family temporary disability
42 leave may be taken intermittently when medically necessary, if: the
43 total time within which the leave is taken does not exceed 12
44 months; the covered individual provides the employer with a copy
45 of the certification required pursuant to subsection b. of this section;
46 the covered individual provides the employer with prior notice of
47 the leave not less than 15 days before the first day on which
48 benefits are paid for the intermittent leave, unless an emergency or

1 other unforeseen circumstance precludes prior notice; and the
2 covered individual makes a reasonable effort to schedule the leave
3 so as not to unduly disrupt the operations of the employer and, if
4 possible, provide the employer, prior to the commencement of
5 intermittent leave, with a regular schedule of the days or days of the
6 week on which the intermittent leave will be taken. In the case of
7 family temporary disability leave benefits to care for a family
8 member with a serious health condition which are taken on a
9 continuous, non-intermittent basis, the covered individual shall:
10 provide the employer with prior notice of the leave in a reasonable
11 and practicable manner, unless an emergency or other unforeseen
12 circumstance precludes prior notice; provide a copy of the
13 certification required pursuant to subsection b. of this section; make
14 a reasonable effort to schedule the leave so as not to unduly disrupt
15 the operations of the employer.

16 b. Any period of family temporary disability leave for the
17 serious health condition of a family member of the covered
18 individual shall be supported by certification provided by a
19 ¹legally licensed physician, dentist, optometrist, podiatrist,
20 practicing psychologist, advanced practice nurse, or chiropractor]
21 health care provider¹. The certification shall be sufficient if it
22 states:

23 (1) The date, if known, on which the serious health condition
24 commenced;

25 (2) The probable duration of the condition;

26 (3) The medical facts within the knowledge of the provider of
27 the certification regarding the condition;

28 (4) A statement that the serious health condition warrants the
29 participation of the covered individual in providing health care,
30 ²including providing psychological comfort and arranging third
31 party care for the family member] as provided in the "Family Leave
32 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted
33 pursuant to that act²;

34 (5) An estimate of the amount of time that the covered
35 individual is needed for participation in the care of the family
36 member;

37 (6) If the leave is intermittent, a statement of the medical
38 necessity for the intermittent leave and the expected duration of the
39 intermittent leave; and

40 (7) If the leave is intermittent and for planned medical
41 treatment, the dates of the treatment.

42 c. A covered individual claiming benefits to provide care for a
43 family member with a serious health condition under the State plan
44 or during unemployment shall, if requested by the division, have the
45 family member submit to an examination by a ¹legally licensed
46 physician, dentist, optometrist, podiatrist, chiropractor, practicing
47 psychologist, advanced practice nurse, or public health nurse]

1 health care provider¹ designated by the division. The examinations
2 shall not be more frequent than once a week, shall be made without
3 cost to the claimant and shall be held at a reasonable time and place.
4 Refusal of the family member to submit to an examination
5 requested pursuant to this subsection shall disqualify the claimant
6 from all benefits for the period in question, except from benefits
7 already paid.

8
9 12. (New section) a. All of the disability benefits paid to a
10 covered individual during a period of family temporary disability
11 leave with respect to any one birth or adoption shall be for a single
12 continuous period of time, except that the employer of the covered
13 individual may permit the covered individual to receive the
14 disability benefits during non-consecutive weeks in a manner
15 mutually agreed to by the employer and the covered individual and
16 disclosed to the division by the employer.

17 b. The covered individual shall provide the employer with
18 notice of the period of family temporary disability leave with
19 respect to birth or adoption not less than 30 days before the leave
20 commences, unless it commences while the individual is receiving
21 unemployment benefits, in which case the covered individual shall
22 notify the division. The amount of benefits shall be reduced by two
23 weeks worth of benefits if the individual does not provide notice to
24 an employer as required by this subsection b., unless the time of the
25 leave is unforeseeable or the time of the leave changes for
26 unforeseeable reasons.

27 c. Family temporary disability leave taken because of the birth
28 or placement for adoption of a child may be taken at any time
29 within a year after the date of the birth or placement for adoption.

30
31 13. (New section) a. The Commissioner of Labor and Workforce
32 Development shall issue and make available to the public, not later
33 than December 31, 2010, and each subsequent year, annual reports
34 providing data on temporary disability benefits, including separate
35 data for claims involving pregnancy and childbirth, and family
36 temporary disability benefits, including separate data for each of the
37 following categories of claims: care of newborn children; care of
38 newly adopted children; care of sick children; care of sick spouses,
39 and care of other sick family members. The reports shall include,
40 for each category of claims, the number of workers receiving the
41 benefits, the amount of benefits paid, the average duration of
42 benefits, the average weekly benefit, and, in the case of family
43 temporary disability benefits, any reported amount of sick leave,
44 vacation or other fully paid time which resulted in reduced benefit
45 duration. The report shall provide data by gender and by any other
46 demographic factors determined to be relevant by the
47 commissioner. The reports shall also provide, for all temporary
48 disability benefits and for all family temporary disability benefits,

1 the total costs of benefits and the total cost of administration, the
2 portion of benefits for claims during unemployment, and the total
3 revenues from: employer assessments, where applicable; employee
4 assessments; and other sources.

5 b. The commissioner may, in his discretion, conduct surveys
6 and other research regarding, and include in the annual reports
7 descriptions and evaluations of, the impact and potential future
8 impact of the provisions of P.L.____, c.____(C.____) (now pending
9 before the Legislature as this bill) on the State disability benefits
10 fund, and other effects of those provisions, including the costs and
11 benefits resulting from the provisions of P.L.____, c.____(C.____) (now
12 pending before the Legislature as this bill) for:

13 (1) Employees and their families, including surveys and
14 evaluations of: what portion of the total number of employees
15 taking leave would not have taken leave, or would have taken less
16 leave, without the availability of benefits; what portion of
17 employees return to work after receiving benefits and what portion
18 are not permitted to return to work; and what portion of employees
19 who are eligible for benefits do not claim or receive them and why
20 they do not;

21 (2) Employers, including benefits such as reduced training and
22 other costs related to reduced turnover of personnel, and increased
23 affordability of family temporary disability leave insurance through
24 the State plan, with special attention given to small businesses; and

25 (3) The public, including savings caused by any reduction in the
26 number of people receiving public assistance.

27 c. The total amount of any expenses which the commissioner
28 determines are necessary to carry out its duties pursuant to this
29 section shall be charged to the Family Temporary Disability Leave
30 Account of the State disability benefits fund, except that the amount
31 shall in no case exceed \$150,000 during any fiscal year.

32

33 14. R.S. 43:21-4 is amended to read as follows:

34 43:21-4. Benefit eligibility conditions. An unemployed
35 individual shall be eligible to receive benefits with respect to any
36 week only if:

37 (a) The individual has filed a claim at an unemployment
38 insurance claims office and thereafter continues to report at an
39 employment service office or unemployment insurance claims
40 office, as directed by the division in accordance with such
41 regulations as the division may prescribe, except that the division
42 may, by regulation, waive or alter either or both of the requirements
43 of this subsection as to individuals attached to regular jobs, and as
44 to such other types of cases or situations with respect to which the
45 division finds that compliance with such requirements would be
46 oppressive, or would be inconsistent with the purpose of this act;
47 provided that no such regulation shall conflict with subsection (a) of
48 R.S.43:21-3.

1 (b) The individual has made a claim for benefits in accordance
2 with the provisions of subsection (a) of R.S.43:21-6.

3 (c) (1) The individual is able to work, and is available for work,
4 and has demonstrated to be actively seeking work, except as
5 hereinafter provided in this subsection or in subsection (f) of this
6 section.

7 (2) The director may modify the requirement of actively seeking
8 work if such modification of this requirement is warranted by
9 economic conditions.

10 (3) No individual, who is otherwise eligible, shall be deemed
11 ineligible, or unavailable for work, because the individual is on
12 vacation, without pay, during said week, if said vacation is not the
13 result of the individual's own action as distinguished from any
14 collective action of a collective bargaining agent or other action
15 beyond the individual's control.

16 (4) (A) Subject to such limitations and conditions as the division
17 may prescribe, an individual, who is otherwise eligible, shall not be
18 deemed unavailable for work or ineligible because the individual is
19 attending a training program approved for the individual by the
20 division to enhance the individual's employment opportunities or
21 because the individual failed or refused to accept work while
22 attending such program.

23 (B) For the purpose of this paragraph (4), any training program
24 shall be regarded as approved by the division for the individual if
25 the program and the individual meet the following requirements:

26 (i) The training is for a labor demand occupation and is likely to
27 enhance the individual's marketable skills and earning power;

28 (ii) The training is provided by a competent and reliable private
29 or public entity approved by the Commissioner of Labor and
30 Workforce Development pursuant to the provisions of section 8 of
31 the "1992 New Jersey Employment and Workforce Development
32 Act," P.L.1992, c.43 (C.34:15D-8);

33 (iii) The individual can reasonably be expected to complete the
34 program, either during or after the period of benefits;

35 (iv) The training does not include on the job training or other
36 training under which the individual is paid by an employer for work
37 performed by the individual during the time that the individual
38 receives benefits; and

39 (v) The individual enrolls in vocational training, remedial
40 education or a combination of both on a full-time basis.

41 (C) If the requirements of subparagraph (B) of this paragraph (4)
42 are met, the division shall not withhold approval of the training
43 program for the individual for any of the following reasons:

44 (i) The training includes remedial basic skills education
45 necessary for the individual to successfully complete the vocational
46 component of the training;

1 (ii) The training is provided in connection with a program under
2 which the individual may obtain a college degree, including a post-
3 graduate degree;

4 (iii) The length of the training period under the program; or

5 (iv) The lack of a prior guarantee of employment upon
6 completion of the training.

7 (D) For the purpose of this paragraph (4), "labor demand
8 occupation" means an occupation for which there is or is likely to
9 be an excess of demand over supply for adequately trained workers,
10 including, but not limited to, an occupation designated as a labor
11 demand occupation by the **【New Jersey】** Center for Occupational
12 Employment Information **【Coordinating Committee】** pursuant to
13 the provisions of subsection **【h.】 d.** of section **【1 of P.L.1987, c.457**
14 **(C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)】** 27 of
15 P.L.2005, c.354 (C.34:1A-86).

16 (5) An unemployed individual, who is otherwise eligible, shall
17 not be deemed unavailable for work or ineligible solely by reason of
18 the individual's attendance before a court in response to a summons
19 for service on a jury.

20 (6) An unemployed individual, who is otherwise eligible, shall
21 not be deemed unavailable for work or ineligible solely by reason of
22 the individual's attendance at the funeral of an immediate family
23 member, provided that the duration of the attendance does not
24 extend beyond a two-day period.

25 For purposes of this paragraph, "immediate family member"
26 includes any of the following individuals: father, mother, mother-
27 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
28 child, child placed by the Division of Youth and Family Services in
29 the Department of Children and Families, sister or brother of the
30 unemployed individual and any relatives of the unemployed
31 individual residing in the unemployed individual's household.

32 (7) No individual, who is otherwise eligible, shall be deemed
33 ineligible or unavailable for work with respect to any week because,
34 during that week, the individual fails or refuses to accept work
35 while the individual is participating on a full-time basis in self-
36 employment assistance activities authorized by the division,
37 whether or not the individual is receiving a self-employment
38 allowance during that week.

39 (8) Any individual who is determined to be likely to exhaust
40 regular benefits and need reemployment services based on
41 information obtained by the worker profiling system shall not be
42 eligible to receive benefits if the individual fails to participate in
43 available reemployment services to which the individual is referred
44 by the division or in similar services, unless the division determines
45 that:

46 (A) The individual has completed the reemployment services; or

47 (B) There is justifiable cause for the failure to participate, which
48 shall include participation in employment and training, self-

1 employment assistance activities or other activities authorized by
2 the division to assist reemployment or enhance the marketable skills
3 and earning power of the individual and which shall include any
4 other circumstance indicated pursuant to this section in which an
5 individual is not required to be available for and actively seeking
6 work to receive benefits.

7 (9) An unemployed individual, who is otherwise eligible, shall
8 not be deemed unavailable for work or ineligible solely by reason of
9 the individual's work as a board worker for a county board of
10 elections on an election day.

11 (d) With respect to any benefit year commencing before January
12 1, 2002, the individual has been totally or partially unemployed for
13 a waiting period of one week in the benefit year which includes that
14 week. When benefits become payable with respect to the third
15 consecutive week next following the waiting period, the individual
16 shall be eligible to receive benefits as appropriate with respect to
17 the waiting period. No week shall be counted as a week of
18 unemployment for the purposes of this subsection:

19 (1) If benefits have been paid, or are payable with respect
20 thereto; provided that the requirements of this paragraph shall be
21 waived with respect to any benefits paid or payable for a waiting
22 period as provided in this subsection;

23 (2) If it has constituted a waiting period week under the
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
25 et seq.);

26 (3) Unless the individual fulfills the requirements of subsections
27 (a) and (c) of this section;

28 (4) If with respect thereto, claimant was disqualified for benefits
29 in accordance with the provisions of subsection (d) of R.S.43:21-5.

30 The waiting period provided by this subsection shall not apply to
31 benefit years commencing on or after January 1, 2002. An
32 individual whose total benefit amount was reduced by the
33 application of the waiting period to a claim which occurred on or
34 after January 1, 2002 and before the effective date of P.L.2002,
35 c.13, shall be permitted to file a claim for the additional benefits
36 attributable to the waiting period in the form and manner prescribed
37 by the division, but not later than the 180th day following the
38 effective date of P.L.2002, c.13 unless the division determines that
39 there is good cause for a later filing.

40 (e) (1)(Deleted by amendment, P.L.2001, c.17).

41 (2) [With respect to benefit years commencing on or after
42 January 1, 1996 and before January 7, 2001, except as otherwise
43 provided in paragraph (3) of this subsection, the individual has,
44 during his base year as defined in subsection (c) of R.S.43:21-19:

45 (A) Established at least 20 base weeks as defined in paragraph
46 (2) of subsection (t) of R.S.43:21-19; or

47 (B) If the individual has not met the requirements of
48 subparagraph (A) of this paragraph (2), earned remuneration not

1 less than an amount 12 times the Statewide average weekly
2 remuneration paid to workers, as determined under R.S.43:21-3(c),
3 which amount shall be adjusted to the next higher multiple of \$100
4 if not already a multiple thereof; or

5 If the individual has not met the requirements of subparagraph
6 (A) or (B) of this paragraph (2), earned remuneration not less than
7 an amount 1,000 times the minimum wage in effect pursuant to
8 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
9 calendar year preceding the calendar year in which the benefit year
10 commences, which amount shall be adjusted to the next higher
11 multiple of \$100 if not already a multiple thereof.】 Deleted by
12 amendment, P.L. C.) (pending before the legislature as this
13 bill).

14 【(3) With respect to benefit years commencing before January 7,
15 2001, notwithstanding the provisions of paragraph (2) of this
16 subsection, an unemployed individual claiming benefits on the basis
17 of service performed in the production and harvesting of
18 agricultural crops shall, subject to the limitations of subsection (i)
19 of R.S.43:21-19, be eligible to receive benefits if during his base
20 year, as defined in subsection of R.S.43:21-19, the individual:

21 (A) Has established at least 20 base weeks as defined in
22 paragraph (2) of subsection (t) of R.S.43:21-19; or

23 (B) Has earned 12 times the Statewide average weekly
24 remuneration paid to workers, as determined under R.S.43:21-3(c),
25 raised to the next higher multiple of \$100.00 if not already a
26 multiple thereof, or more; or

27 (C) Has performed at least 770 hours of service in the
28 production and harvesting of agricultural crops.】 (Deleted by
29 amendment, P.L. , c.) (pending before the Legislature as this
30 bill).

31 (4) With respect to benefit years commencing on or after
32 January 7, 2001, except as otherwise provided in paragraph (5) of
33 this subsection, the individual has, during his base year as defined
34 in subsection (c) of R.S.43:21-19:

35 (A) Established at least 20 base weeks as defined in paragraphs
36 (2) and (3) of subsection (t) of R.S.43:21-19; or

37 (B) If the individual has not met the requirements of
38 subparagraph (A) of this paragraph (4), earned remuneration not
39 less than an amount 1,000 times the minimum wage in effect
40 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
41 1 of the calendar year preceding the calendar year in which the
42 benefit year commences, which amount shall be adjusted to the next
43 higher multiple of \$100 if not already a multiple thereof.

44 (5) With respect to benefit years commencing on or after
45 January 7, 2001, notwithstanding the provisions of paragraph (4) of
46 this subsection, an unemployed individual claiming benefits on the
47 basis of service performed in the production and harvesting of
48 agricultural crops shall, subject to the limitations of subsection (i)

1 of R.S.43:21-19, be eligible to receive benefits if during his base
2 year, as defined in subsection (c) of R.S.43:21-19, the individual:

3 (A) Has established at least 20 base weeks as defined in
4 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

5 (B) Has earned remuneration not less than an amount 1,000
6 times the minimum wage in effect pursuant to section 5 of
7 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
8 preceding the calendar year in which the benefit year commences,
9 which amount shall be adjusted to the next higher multiple of \$100
10 if not already a multiple thereof; or

11 (C) Has performed at least 770 hours of service in the
12 production and harvesting of agricultural crops.

13 (6) The individual applying for benefits in any successive
14 benefit year has earned at least six times his previous weekly
15 benefit amount and has had four weeks of employment since the
16 beginning of the immediately preceding benefit year. This
17 provision shall be in addition to the earnings requirements specified
18 in paragraph [(2), (3),] (4) or (5) of this subsection, as applicable.

19 (f) (1) The individual has suffered any accident or sickness not
20 compensable under the workers' compensation law, R.S.34:15-1 et
21 seq. and resulting in the individual's total disability to perform any
22 work for remuneration, and would be eligible to receive benefits
23 under this chapter (R.S.43:21-1 et seq.) (without regard to the
24 maximum amount of benefits payable during any benefit year)
25 except for the inability to work and has furnished notice and proof
26 of claim to the division, in accordance with its rules and
27 regulations, and payment is not precluded by the provisions of
28 R.S.43:21-3(d); provided, however, that benefits paid under this
29 subsection (f) shall be computed on the basis of only those base
30 year wages earned by the claimant as a "covered individual," as
31 defined in R.S.43:21-27(b); provided further that no benefits shall
32 be payable under this subsection to any individual:

33 (A) For any period during which such individual is not under the
34 care of a legally licensed physician, dentist, optometrist, podiatrist,
35 practicing psychologist, advanced practice nurse, or chiropractor,
36 who, when requested by the division, shall certify within the scope
37 of the practitioner's practice, the disability of the individual, the
38 probable duration thereof, and, where applicable, the medical facts
39 within the practitioner's knowledge;

40 (B) (Deleted by amendment, P.L.1980, c.90.)

41 (C) For any period of disability due to willfully or intentionally
42 self-inflicted injury, or to injuries sustained in the perpetration by
43 the individual of a crime of the first, second or third degree;

44 (D) For any week with respect to which or a part of which the
45 individual has received or is seeking benefits under any
46 unemployment compensation or disability benefits law of any other
47 state or of the United States; provided that if the appropriate agency
48 of such other state or the United States finally determines that the

1 individual is not entitled to such benefits, this disqualification shall
2 not apply;

3 (E) For any week with respect to which or part of which the
4 individual has received or is seeking disability benefits under the
5 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
6 et seq.);

7 (F) For any period of disability commencing while such
8 individual is a "covered individual," as defined in subsection (b) of
9 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
10 c.110 (C.43:21-27).

11 (2) The individual is taking family temporary disability leave to
12 provide care for a family member with a serious health condition or
13 to be with a child during the first 12 months after the child's birth or
14 placement of the child for adoption with the individual, and the
15 individual would be eligible to receive benefits under R.S.43:21-1
16 et seq. (without regard to the maximum amount of benefits payable
17 during any benefit year) except for the individual's unavailability
18 for work while taking the family temporary disability leave, and the
19 individual has furnished notice and proof of claim to the division, in
20 accordance with its rules and regulations, and payment is not
21 precluded by the provisions of R.S.43:21-3(d) provided, however,
22 that benefits paid under this subsection (f) shall be computed on the
23 basis of only those base year wages earned by the claimant as a
24 "covered individual," as defined in R.S.43:21-27(b); provided
25 further that no benefits shall be payable under this subsection to any
26 individual:

27 (A) For any week with respect to which or a part of which the
28 individual has received or is seeking benefits under any
29 unemployment compensation or disability benefits law of any other
30 state or of the United States; provided that if the appropriate agency
31 of such other state or the United States finally determines that the
32 individual is not entitled to such benefits, this disqualification shall
33 not apply;

34 (B) For any week with respect to which or part of which the
35 individual has received or is seeking disability benefits for a
36 disability of the individual under the "Temporary Disability
37 Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

38 (C) For any period of family temporary disability leave
39 commencing while the individual is a "covered individual," as
40 defined in subsection (b) of section 3 of the "Temporary Disability
41 Benefits Law," P.L.1948, c.110 (C.43:21-27): or

42 (D) For any period of family temporary disability leave for a
43 serious health condition of a family member of the claimant during
44 which the family member is not receiving inpatient care in a
45 hospital, hospice, or residential medical care facility and is not
46 subject to continuing medical treatment or continuing supervision
47 by a health care provider, who, when requested by the division,
48 shall certify within the scope of the provider's practice, the serious

1 health condition of the family member, the probable duration
2 thereof, and, where applicable, the medical facts within the
3 provider's knowledge.

4 (3) Benefit payments under this subsection (f) shall be charged
5 to and paid from the State disability benefits fund established by the
6 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
7 et seq.), and shall not be charged to any employer account in
8 computing any employer's experience rate for contributions payable
9 under this chapter.

10 (g) Benefits based on service in employment defined in
11 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
12 in the same amount and on the terms and subject to the same
13 conditions as benefits payable on the basis of other service subject
14 to the "unemployment compensation law"; except that,
15 notwithstanding any other provisions of the "unemployment
16 compensation law":

17 (1) With respect to service performed after December 31, 1977,
18 in an instructional research, or principal administrative capacity for
19 an educational institution, benefits shall not be paid based on such
20 services for any week of unemployment commencing during the
21 period between two successive academic years, or during a similar
22 period between two regular terms, whether or not successive, or
23 during a period of paid sabbatical leave provided for in the
24 individual's contract, to any individual if such individual performs
25 such services in the first of such academic years (or terms) and if
26 there is a contract or a reasonable assurance that such individual
27 will perform services in any such capacity for any educational
28 institution in the second of such academic years or terms;

29 (2) With respect to weeks of unemployment beginning after
30 September 3, 1982, on the basis of service performed in any other
31 capacity for an educational institution, benefits shall not be paid on
32 the basis of such services to any individual for any week which
33 commences during a period between two successive academic years
34 or terms if such individual performs such services in the first of
35 such academic years or terms and there is a reasonable assurance
36 that such individual will perform such services in the second of
37 such academic years or terms, except that if benefits are denied to
38 any individual under this paragraph (2) and the individual was not
39 offered an opportunity to perform these services for the educational
40 institution for the second of any academic years or terms, the
41 individual shall be entitled to a retroactive payment of benefits for
42 each week for which the individual filed a timely claim for benefits
43 and for which benefits were denied solely by reason of this clause;

44 (3) With respect to those services described in paragraphs (1)
45 and (2) above, benefits shall not be paid on the basis of such
46 services to any individual for any week which commences during
47 an established and customary vacation period or holiday recess if
48 such individual performs such services in the period immediately

1 before such vacation period or holiday recess, and there is a
2 reasonable assurance that such individual will perform such
3 services in the period immediately following such period or holiday
4 recess;

5 (4) With respect to any services described in paragraphs (1) and
6 (2) above, benefits shall not be paid as specified in paragraphs (1),
7 (2), and (3) above to any individual who performed those services
8 in an educational institution while in the employ of an educational
9 service agency, and for this purpose the term "educational service
10 agency" means a governmental agency or governmental entity
11 which is established and operated exclusively for the purpose of
12 providing those services to one or more educational institutions.

13 (h) Benefits shall not be paid to any individual on the basis of
14 any services, substantially all of which consist of participating in
15 sports or athletic events or training or preparing to so participate,
16 for any week which commences during the period between two
17 successive sports seasons (or similar periods) if such individual
18 performed such services in the first of such seasons (or similar
19 periods) and there is a reasonable assurance that such individual
20 will perform such services in the later of such seasons (or similar
21 periods).

22 (i) (1) Benefits shall not be paid on the basis of services
23 performed by an alien unless such alien is an individual who was
24 lawfully admitted for permanent residence at the time the services
25 were performed and was lawfully present for the purpose of
26 performing the services or otherwise was permanently residing in
27 the United States under color of law at the time the services were
28 performed (including an alien who is lawfully present in the United
29 States as a result of the application of the provisions of section
30 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
31 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
32 modifications of the provisions of section 3304(a)(14) of the
33 Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as
34 provided by Pub.L.94-566, which specify other conditions or other
35 effective dates than stated herein for the denial of benefits based on
36 services performed by aliens and which modifications are required
37 to be implemented under State law as a condition for full tax credit
38 against the tax imposed by the Federal Unemployment Tax Act,
39 shall be deemed applicable under the provisions of this section.

40 (2) Any data or information required of individuals applying for
41 benefits to determine whether benefits are not payable to them
42 because of their alien status shall be uniformly required from all
43 applicants for benefits.

44 (3) In the case of an individual whose application for benefits
45 would otherwise be approved, no determination that benefits to such
46 individual are not payable because of alien status shall be made
47 except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).
(cf: P.L.2006, c.47, s.187)

15. R.S.43:21-7 is amended to read as follows:

43:21-7. Contributions. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a

1 successor employer) during any calendar year acquires substantially
2 all the property used in a trade or business of another employer
3 (hereinafter referred to as a predecessor), or used in a separate unit
4 of a trade or business of a predecessor, and immediately after the
5 acquisition employs in his trade or business an individual who
6 immediately prior to the acquisition was employed in the trade or
7 business of such predecessors, then, for the purpose of determining
8 whether the successor employer has paid wages with respect to
9 employment equal to the first \$4,800.00 paid during calendar year
10 1975, any wages paid to such individual by such predecessor during
11 such calendar year and prior to such acquisition shall be considered
12 as having been paid by such successor employer.

13 (3) For calendar years beginning on and after January 1, 1976,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b), shall be established and
16 promulgated by the Commissioner of Labor and Workforce
17 Development on or before September 1 of the preceding year and
18 shall be, 28 times the Statewide average weekly remuneration paid
19 to workers by employers, as determined under R.S.43:21-3(c),
20 raised to the next higher multiple of \$100.00 if not already a
21 multiple thereof, provided that if the amount of wages so
22 determined for a calendar year is less than the amount similarly
23 determined for the preceding year, the greater amount will be used;
24 provided, further, that if the amount of such wages so determined
25 does not equal or exceed the amount of wages as defined in
26 subsection (b) of section 3306 of the Federal Unemployment Tax
27 Act, Chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C.
28 s.3306(b)), the wages as determined in this paragraph in any
29 calendar year shall be raised to equal the amount established under
30 the Federal Unemployment Tax Act for that calendar year.

31 (c) Future rates based on benefit experience.

32 (1) A separate account for each employer shall be maintained
33 and this shall be credited with all the contributions which he has
34 paid on his own behalf on or before January 31 of any calendar year
35 with respect to employment occurring in the preceding calendar
36 year; provided, however, that if January 31 of any calendar year
37 falls on a Saturday or Sunday, an employer's account shall be
38 credited as of January 31 of such calendar year with all the
39 contributions which he has paid on or before the next succeeding
40 day which is not a Saturday or Sunday. But nothing in this chapter
41 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
42 individuals in his service prior claims or rights to the amounts paid
43 by him into the fund either on his own behalf or on behalf of such
44 individuals. Benefits paid with respect to benefit years
45 commencing on and after January 1, 1953, to any individual on or
46 before December 31 of any calendar year with respect to
47 unemployment in such calendar year and in preceding calendar
48 years shall be charged against the account or accounts of the

1 employer or employers in whose employment such individual
2 established base weeks constituting the basis of such benefits,
3 except that, with respect to benefit years commencing after January
4 4, 1998, an employer's account shall not be charged for benefits
5 paid to a claimant if the claimant's employment by that employer
6 was ended in any way which, pursuant to subsection (a), (b), (c),
7 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
8 for benefits if the claimant had applied for benefits at the time when
9 that employment ended. Benefits paid under a given benefit
10 determination shall be charged against the account of the employer
11 to whom such determination relates. When each benefit payment is
12 made, either a copy of the benefit check or other form of
13 notification shall be promptly sent to the employer against whose
14 account the benefits are to be charged. Such copy or notification
15 shall identify the employer against whose account the amount of
16 such payment is being charged, shall show at least the name and
17 social security account number of the claimant and shall specify the
18 period of unemployment to which said check applies. If the total
19 amount of benefits paid to a claimant and charged to the account of
20 the appropriate employer exceeds 50% of the total base year, base
21 week wages paid to the claimant by that employer, then such
22 employer shall have canceled from his account such excess benefit
23 charges as specified above.

24 Each employer shall be furnished an annual summary statement
25 of benefits charged to his account.

26 (2) Regulations may be prescribed for the establishment,
27 maintenance, and dissolution of joint accounts by two or more
28 employers, and shall, in accordance with such regulations and upon
29 application by two or more employers to establish such an account,
30 or to merge their several individual accounts in a joint account,
31 maintain such joint account as if it constituted a single employer's
32 account.

33 (3) No employer's rate shall be lower than 5.4% unless
34 assignment of such lower rate is consistent with the conditions
35 applicable to additional credit allowance for such year under section
36 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
37 s.3303(a)(1)), any other provision of this section to the contrary
38 notwithstanding.

39 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
40 $2 \frac{8}{10}\%$, except as otherwise provided in the following provisions.
41 No employer's rate for the 12 months commencing July 1 of any
42 calendar year shall be other than $2 \frac{8}{10}\%$, unless as of the
43 preceding January 31 such employer shall have paid contributions
44 with respect to wages paid in each of the three calendar years
45 immediately preceding such year, in which case such employer's
46 rate for the 12 months commencing July 1 of any calendar year
47 shall be determined on the basis of his record up to the beginning of
48 such calendar year. If, at the beginning of such calendar year, the

1 total of all his contributions, paid on his own behalf, for all past
2 years exceeds the total benefits charged to his account for all such
3 years, his contribution rate shall be:

4 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
5 5%, of his average annual payroll (as defined in paragraph (2),
6 subsection (a) of R.S.43:21-19);

7 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
8 than 6%, of his average annual payroll;

9 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
10 than 7%, of his average annual payroll;

11 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
12 than 8%, of his average annual payroll;

13 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
14 than 9%, of his average annual payroll;

15 (6) 1%, if such excess equals or exceeds 9%, but is less than
16 10%, of his average annual payroll;

17 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is less
18 than 11%, of his average annual payroll;

19 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11% of his
20 average annual payroll.

21 (B) If the total of an employer's contributions, paid on his own
22 behalf, for all past periods for the purposes of this paragraph (4), is
23 less than the total benefits charged against his account during the
24 same period, his rate shall be:

25 (1) 4%, if such excess is less than 10% of his average annual
26 payroll;

27 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
28 than 20%, of his average annual payroll;

29 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
30 average annual payroll.

31 (C) Specially assigned rates.

32 (i) If no contributions were paid on wages for employment in
33 any calendar year used in determining the average annual payroll of
34 an employer eligible for an assigned rate under this paragraph (4),
35 the employer's rate shall be specially assigned as follows:

36 if the reserve balance in its account is positive, its assigned rate
37 shall be the highest rate in effect for positive balance accounts for
38 that period, or 5.4%, whichever is higher, and

39 if the reserve balance in its account is negative, its assigned rate
40 shall be the highest rate in effect for deficit accounts for that period.

41 (ii) If, following the purchase of a corporation with little or no
42 activity, known as a corporate shell, the resulting employing unit
43 operates a new or different business activity, the employing unit
44 shall be assigned a new employer rate.

45 (iii) Entities operating under common ownership, management or
46 control, when the operation of the entities is not identifiable,

1 distinguishable and severable, shall be considered a single employer
2 for the purposes of this chapter (R.S. 43:21-1 et seq.).

3 (D) The contribution rates prescribed by subparagraphs (A) and
4 (B) of this paragraph (4) shall be increased or decreased in
5 accordance with the provisions of paragraph (5) of this subsection
6 (c) for experience rating periods through June 30, 1986.

7 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
8 31 of any calendar year the balance in the unemployment trust fund
9 equals or exceeds 4% but is less than 7% of the total taxable wages
10 reported to the controller as of that date in respect to employment
11 during the preceding calendar year, the contribution rate, effective
12 July 1 following, of each employer eligible for a contribution rate
13 calculation based upon benefit experience, shall be increased by
14 $\frac{3}{10}$ of 1% over the contribution rate otherwise established under
15 the provisions of paragraph (3) or (4) of this subsection. If on
16 March 31 of any calendar year the balance of the unemployment
17 trust fund exceeds $2\frac{1}{2}\%$ but is less than 4% of the total taxable
18 wages reported to the controller as of that date in respect to
19 employment during the preceding calendar year, the contribution
20 rate, effective July 1 following, of each employer eligible for a
21 contribution rate calculation based upon benefit experience, shall be
22 increased by $\frac{6}{10}$ of 1% over the contribution rate otherwise
23 established under the provisions of paragraph (3) or (4) of this
24 subsection.

25 If on March 31 of any calendar year the balance of the
26 unemployment trust fund is less than $2\frac{1}{2}\%$ of the total taxable
27 wages reported to the controller as of that date in respect to
28 employment during the preceding calendar year, the contribution
29 rate, effective July 1 following, of each employer (1) eligible for a
30 contribution rate calculation based upon benefit experience, shall be
31 increased by (i) $\frac{6}{10}$ of 1% over the contribution rate otherwise
32 established under the provisions of paragraph (3), (4)(A) or (4)(B)
33 of this subsection, and (ii) an additional amount equal to 20% of the
34 total rate established herein, provided, however, that the final
35 contribution rate for each employer shall be computed to the nearest
36 multiple of $\frac{1}{10}\%$ if not already a multiple thereof; (2) not eligible
37 for a contribution rate calculation based upon benefit experience,
38 shall be increased by $\frac{6}{10}$ of 1% over the contribution rate
39 otherwise established under the provisions of paragraph (4) of this
40 subsection. For the period commencing July 1, 1984 and ending
41 June 30, 1986, the contribution rate for each employer liable to pay
42 contributions under R.S.43:21-7 shall be increased by a factor of
43 10% computed to the nearest multiple of $\frac{1}{10}\%$ if not already a
44 multiple thereof.

45 (B) If on March 31 of any calendar year the balance in the
46 unemployment trust fund equals or exceeds 10% but is less than $12\frac{1}{2}\%$
47 of the total taxable wages reported to the controller as of that

1 date in respect to employment during the preceding calendar year,
2 the contribution rate, effective July 1 following, of each employer
3 eligible for a contribution rate calculation based upon benefit
4 experience, shall be reduced by 3/10 of 1% under the contribution
5 rate otherwise established under the provisions of paragraphs (3)
6 and (4) of this subsection; provided that in no event shall the
7 contribution rate of any employer be reduced to less than 4/10 of
8 1%. If on March 31 of any calendar year the balance in the
9 unemployment trust fund equals or exceeds 12 1/2% of the total
10 taxable wages reported to the controller as of that date in respect to
11 employment during the preceding calendar year, the contribution
12 rate, effective July 1 following, of each employer eligible for a
13 contribution rate calculation based upon benefit experience, shall be
14 reduced by 6/10 of 1% if his account for all past periods reflects an
15 excess of contributions paid over total benefits charged of 3% or
16 more of his average annual payroll, otherwise by 3/10 of 1% under
17 the contribution rate otherwise established under the provisions of
18 paragraphs (3) and (4) of this subsection; provided that in no event
19 shall the contribution rate of any employer be reduced to less than
20 4/10 of 1%.

21 (C) The "balance" in the unemployment trust fund, as the term is
22 used in subparagraphs (A) and (B) above, shall not include moneys
23 credited to the State's account under section 903 of the Social
24 Security Act, as amended (42 U.S.C.s.1103), during any period in
25 which such moneys are appropriated for the payment of expenses
26 incurred in the administration of the "unemployment compensation
27 law."

28 (D) Prior to July 1 of each calendar year the controller shall
29 determine the Unemployment Trust Reserve Ratio, which shall be
30 calculated by dividing the balance of the unemployment trust fund
31 as of the prior March 31 by total taxable wages reported to the
32 controller by all employers as of March 31 with respect to their
33 employment during the last calendar year.

34 (E) (i)(Deleted by amendment, P.L.1997, c.263).

35 (ii)(Deleted by amendment, P.L.2001, c.152).

36 (iii)(Deleted by amendment, P.L.2003, c.107).

37 (iv)(Deleted by amendment, P.L.2004, c.45).

38 (v) **【**With respect to the experience rating year beginning on
39 July 1, 2003, the new employer rate or the unemployment
40 experience rate of an employer under this section shall be the rate
41 which appears in the column headed by the Unemployment Trust
42 Fund Reserve Ratio as of the applicable calculation date and on the
43 line with the Employer Reserve Ratio, as defined in paragraph 4 of
44 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
45 table:

1	EXPERIENCE RATING TAX TABLE				
2	Fund Reserve Ratio ¹				
3					
4		2.50%	2.00%	1.50%	1.00% 0.99%
5	Employer	and	to	to	to and
6	Reserve	Over	2.49%	1.99%	1.49% Under
7	Ratio ²	A	B	C	D E
8	Positive Reserve Ratio:				
9	17% and over	0.3	0.4	0.5	0.6 1.2
10	16.00% to 16.99%	0.4	0.5	0.6	0.6 1.2
11	15.00% to 15.99%	0.4	0.6	0.7	0.7 1.2
12	14.00% to 14.99%	0.5	0.6	0.7	0.8 1.2
13	13.00% to 13.99%	0.6	0.7	0.8	0.9 1.2
14	12.00% to 12.99%	0.6	0.8	0.9	1.0 1.2
15	11.00% to 11.99%	0.7	0.8	1.0	1.1 1.2
16	10.00% to 10.99%	0.9	1.1	1.3	1.5 1.6
17	9.00% to 9.99%	1.0	1.3	1.6	1.7 1.9
18	8.00% to 8.99%	1.3	1.6	1.9	2.1 2.3
19	7.00% to 7.99%	1.4	1.8	2.2	2.4 2.6
20	6.00% to 6.99%	1.7	2.1	2.5	2.8 3.0
21	5.00% to 5.99%	1.9	2.4	2.8	3.1 3.4
22	4.00% to 4.99%	2.0	2.6	3.1	3.4 3.7
23	3.00% to 3.99%	2.1	2.7	3.2	3.6 3.9
24	2.00% to 2.99%	2.2	2.8	3.3	3.7 4.0
25	1.00% to 1.99%	2.3	2.9	3.4	3.8 4.1
26	0.00% to 0.99%	2.4	3.0	3.6	4.0 4.3
27	Deficit Reserve Ratio:				
28	-0.00% to -2.99%	3.4	4.3	5.1	5.6 6.1
29	-3.00% to -5.99%	3.4	4.3	5.1	5.7 6.2
30	-6.00% to -8.99%	3.5	4.4	5.2	5.8 6.3
31	-9.00% to-11.99%	3.5	4.5	5.3	5.9 6.4
32	-12.00% to-14.99%	3.6	4.6	5.4	6.0 6.5
33	-15.00% to-19.99%	3.6	4.6	5.5	6.1 6.6
34	-20.00% to-24.99%	3.7	4.7	5.6	6.2 6.7
35	-25.00% to-29.99%	3.7	4.8	5.6	6.3 6.8
36	-30.00%to-34.99%	3.8	4.8	5.7	6.3 6.9
37	-35.00% and under	5.4	5.4	5.8	6.4 7.0
38	New Employer Rate	2.8	2.8	2.8	3.1 3.4
39	¹ Fund balance as of March 31 as a percentage of taxable wages				
40	in the prior calendar year.				
41	² Employer Reserve Ratio (Contributions minus benefits as a				
42	percentage of employer's taxable wages). 】 <u>(Deleted by amendment,</u>				
43	<u>P.L. _____, c. _____)(pending before the Legislature as this bill)</u>				
44	(vi) With respect to experience rating years beginning on or after				
45	July 1, 2004, the new employer rate or the unemployment				
46	experience rate of an employer under this section shall be the rate				
47	which appears in the column headed by the Unemployment Trust				
48	Fund Reserve Ratio as of the applicable calculation date and on the				

1 line with the Employer Reserve Ratio, as defined in paragraph 4 of
2 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
3 table:

4	
5	EXPERIENCE RATING TAX TABLE
6	Fund Reserve Ratio ¹
7	
8	1.40% 1.00% 0.75% 0.50% 0.49%
9	Employer and to to to and
10	Reserve Over 1.39% 0.99% 0.74% Under
11	Ratio ² A B C D E
12	Positive Reserve Ratio:
13	17% and over 0.3 0.4 0.5 0.6 1.2
14	16.00% to 16.99% 0.4 0.5 0.6 0.6 1.2
15	15.00% to 15.99% 0.4 0.6 0.7 0.7 1.2
16	14.00% to 14.99% 0.5 0.6 0.7 0.8 1.2
17	13.00% to 13.99% 0.6 0.7 0.8 0.9 1.2
18	12.00% to 12.99% 0.6 0.8 0.9 1.0 1.2
19	11.00% to 11.99% 0.7 0.8 1.0 1.1 1.2
20	10.00% to 10.99% 0.9 1.1 1.3 1.5 1.6
21	9.00% to 9.99% 1.0 1.3 1.6 1.7 1.9
22	8.00% to 8.99% 1.3 1.6 1.9 2.1 2.3
23	7.00% to 7.99% 1.4 1.8 2.2 2.4 2.6
24	6.00% to 6.99% 1.7 2.1 2.5 2.8 3.0
25	5.00% to 5.99% 1.9 2.4 2.8 3.1 3.4
26	4.00% to 4.99% 2.0 2.6 3.1 3.4 3.7
27	3.00% to 3.99% 2.1 2.7 3.2 3.6 3.9
28	2.00% to 2.99% 2.2 2.8 3.3 3.7 4.0
29	1.00% to 1.99% 2.3 2.9 3.4 3.8 4.1
30	0.00% to 0.99% 2.4 3.0 3.6 4.0 4.3
31	Deficit Reserve Ratio:
32	-0.00% to -2.99% 3.4 4.3 5.1 5.6 6.1
33	-3.00% to -5.99% 3.4 4.3 5.1 5.7 6.2
34	-6.00% to -8.99% 3.5 4.4 5.2 5.8 6.3
35	-9.00% to-11.99% 3.5 4.5 5.3 5.9 6.4
36	-12.00% to-14.99% 3.6 4.6 5.4 6.0 6.5
37	-15.00% to-19.99% 3.6 4.6 5.5 6.1 6.6
38	-20.00% to-24.99% 3.7 4.7 5.6 6.2 6.7
39	-25.00% to-29.99% 3.7 4.8 5.6 6.3 6.8
40	-30.00% to-34.99% 3.8 4.8 5.7 6.3 6.9
41	-35.00% and under 5.4 5.4 5.8 6.4 7.0
42	New Employer Rate 2.8 2.8 2.8 3.1 3.4

43 ¹Fund balance as of March 31 as a percentage of taxable wages
44 in the prior calendar year.

45 ²Employer Reserve Ratio (Contributions minus benefits as a
46 percentage of employer's taxable wages).

47 (F) (i) (Deleted by amendment, P.L.1997, c.263).

- 1 (ii) **【**With respect to experience rating years beginning on or
2 after July 1, 1997, if the fund reserve ratio, based on the fund
3 balance as of the prior March 31, is less than 1.00%, the
4 contribution rate for each employer liable to pay contributions, as
5 computed under subparagraph (E) of this paragraph (5), shall be
6 increased by a factor of 10% computed to the nearest multiple of
7 1/10% if not already a multiple thereof.**】** (Deleted by amendment,
8 P.L. _____, c. _____)(pending before the Legislature as this bill)
- 9 (iii) With respect to experience rating years beginning on or after
10 July 1, 2004, if the fund reserve ratio, based on the fund balance as
11 of the prior March 31, is less than 0.50%, the contribution rate for
12 each employer liable to pay contributions, as computed under
13 subparagraph (E) of this paragraph (5), shall be increased by a
14 factor of 10% computed to the nearest multiple of 1/10% if not
15 already a multiple thereof.
- 16 (G) On or after January 1, 1993, notwithstanding any other
17 provisions of this paragraph (5), the contribution rate for each
18 employer liable to pay contributions, as computed under
19 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
20 except that, during any experience rating year starting before
21 January 1, 1998 in which the fund reserve ratio is equal to or greater
22 than 7.00% or during any experience rating year starting on or after
23 January 1, 1998, in which the fund reserve ratio is equal to or
24 greater than 3.5%, there shall be no decrease pursuant to this
25 subparagraph (G) in the contribution of any employer who has a
26 deficit reserve ratio of negative 35.00% or under.
- 27 (H) **【**On or after January 1, 1993 until December 31, 1993,
28 notwithstanding any other provisions of this paragraph (5), the
29 contribution rate for each employer liable to pay contributions, as
30 computed under subparagraph (E) of this paragraph (5), shall be
31 decreased by a factor of 52.0% computed to the nearest multiple of
32 1/10%, except that, if an employer has a deficit reserve ratio of
33 negative 35.0% or under, the employer's rate of contribution shall
34 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
35 The amount of the reduction in the employer contributions
36 stipulated by this subparagraph (H) shall be in addition to the
37 amount of the reduction in the employer contributions stipulated by
38 subparagraph (G) of this paragraph (5), except that the rate of
39 contribution of an employer who has a deficit reserve ratio of
40 negative 35.0% or under shall not be reduced pursuant to this
41 subparagraph (H) to less than 5.4% and the rate of contribution of
42 any other employer shall not be reduced to less than 0.0%. On or
43 after January 1, 1994 until December 31, 1995, except as provided
44 pursuant to subparagraph (I) of this paragraph (5), notwithstanding
45 any other provisions of this paragraph (5), the contribution rate for
46 each employer liable to pay contributions, as computed under
47 subparagraph (E) of this paragraph (5), shall be decreased by a
48 factor of 36.0% computed to the nearest multiple of 1/10%, except

1 that, if an employer has a deficit reserve ratio of negative 35.0% or
2 under, the employer's rate of contribution shall not be reduced
3 pursuant to this subparagraph (H) to less than 5.4%. The amount of
4 the reduction in the employer contributions stipulated by this
5 subparagraph (H) shall be in addition to the amount of the reduction
6 in the employer contributions stipulated by subparagraph (G) of this
7 paragraph (5), except that the rate of contribution of an employer
8 who has a deficit reserve ratio of negative 35.0% or under shall not
9 be reduced pursuant to this subparagraph (H) to less than 5.4% and
10 the rate of contribution of any other employer shall not be reduced
11 to less than 0.0%.

12 On or after April 1, 1996 until December 31, 1996, the
13 contribution rate for each employer liable to pay contributions, as
14 computed under subparagraph (E) of this paragraph (5), shall be
15 decreased by a factor of 25.0% computed to the nearest multiple of
16 1/10%, except that, if an employer has a deficit reserve ratio of
17 negative 35.0% or under, the employer's rate of contribution shall
18 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
19 The amount of the reduction in the employer contributions
20 stipulated by this subparagraph (H) shall be in addition to the
21 amount of the reduction in the employer contributions stipulated by
22 subparagraph (G) of this paragraph (5), except that the rate of
23 contribution of an employer who has a deficit reserve ratio of
24 negative 35.0% or under shall not be reduced pursuant to this
25 subparagraph (H) to less than 5.4% and the rate of contribution of
26 any other employer shall not be reduced to less than 0.0%.

27 On or after January 1, 1997 until December 31, 1997, the
28 contribution rate for each employer liable to pay contributions, as
29 computed under subparagraph (E) of this paragraph (5), shall be
30 decreased by a factor of 10.0% computed to the nearest multiple of
31 1/10%, except that, if an employer has a deficit reserve ratio of
32 negative 35.0% or under, the employer's rate of contribution shall
33 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
34 The amount of the reduction in the employer contributions
35 stipulated by this subparagraph (H) shall be in addition to the
36 amount of the reduction in the employer contributions stipulated by
37 subparagraph (G) of this paragraph (5), except that the rate of
38 contribution of an employer who has a deficit reserve ratio of
39 negative 35.0% or under shall not be reduced pursuant to this
40 subparagraph (H) to less than 5.4% and the rate of contribution of
41 any other employer shall not be reduced to less than 0.0%.】

42 On and after January 1, 1998 until December 31, 2000 and on or
43 after January 1, 2002 until June 30, 2006, the contribution rate for
44 each employer liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be decreased by a
46 factor, as set out below, computed to the nearest multiple of 1/10%,
47 except that, if an employer has a deficit reserve ratio of negative

1 35.0% or under, the employer's rate of contribution shall not be
2 reduced pursuant to this subparagraph (H) to less than 5.4%:

3 From January 1, 1998 until December 31, 1998, a factor of 12%;
4 From January 1, 1999 until December 31, 1999, a factor of 10%;
5 From January 1, 2000 until December 31, 2000, a factor of 7%;
6 From January 1, 2002 until March 31, 2002, a factor of 36%;
7 From April 1, 2002 until June 30, 2002, a factor of 85%;
8 From July 1, 2002 until June 30, 2003, a factor of 15%;
9 From July 1, 2003 until June 30, 2004, a factor of 15%;
10 From July 1, 2004 until June 30, 2005, a factor of 7%;
11 From July 1, 2005 until December 31, 2005, a factor of 16%; and
12 From January 1, 2006 until June 30, 2006, a factor of 34%.

13 The amount of the reduction in the employer contributions
14 stipulated by this subparagraph (H) shall be in addition to the
15 amount of the reduction in the employer contributions stipulated by
16 subparagraph (G) of this paragraph (5), except that the rate of
17 contribution of an employer who has a deficit reserve ratio of
18 negative 35.0% or under shall not be reduced pursuant to this
19 subparagraph (H) to less than 5.4% and the rate of contribution of
20 any other employer shall not be reduced to less than 0.0%.

21 (I) [If the fund reserve ratio decreases to a level of less than
22 4.00% on March 31 of calendar year 1994 or calendar year 1995,
23 the provisions of subparagraph (H) of this paragraph (5) shall cease
24 to be in effect as of July 1 of that calendar year.

25 If, upon calculating the unemployment compensation fund
26 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
27 1997, March 31, 1998 or March 31, 1999, the controller finds that
28 the fund reserve ratio has decreased to a level of less than 3.00%,
29 the Commissioner of Labor and Workforce Development shall
30 notify the State Treasurer of this fact and of the dollar amount
31 necessary to bring the fund reserve ratio up to a level of 3.00%.
32 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
33 or March 31, 1999, as applicable, transfer from the General Fund to
34 the unemployment compensation fund, revenues in the amount
35 specified by the commissioner and which, upon deposit in the
36 unemployment compensation fund, shall result, upon recalculation,
37 in a fund reserve ratio used to determine employer contributions
38 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
39 at least 3.00%. If, upon calculating the unemployment
40 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
41 prior to March 31, 2000, the controller finds that the fund reserve
42 ratio has decreased to a level of less than 3.00%, the Commissioner
43 of Labor and Workforce Development shall notify the State
44 Treasurer of this fact and of the dollar amount necessary to bring
45 the fund reserve ratio up to a level of 3.00%. The State Treasurer
46 shall, prior to March 31, 2000, transfer from the General Fund to
47 the unemployment compensation fund, revenues in the amount
48 specified by the commissioner and which, upon deposit in the

1 unemployment compensation fund, shall result, upon recalculation,
2 in a fund reserve ratio used to determine employer contributions
3 beginning July 1, 2000 of at least 3.00%.】 (Deleted by amendment,
4 P.L. _____, c. _____)(pending before the Legislature as this bill)

5 (J) On or after July 1, 2001, notwithstanding any other
6 provisions of this paragraph (5), the contribution rate for each
7 employer liable to pay contributions, as computed under
8 subparagraph (E) of this paragraph (5), shall be decreased by
9 0.0175%, except that, during any experience rating year starting on
10 or after July 1, 2001, in which the fund reserve ratio is equal to or
11 greater than 3.5%, there shall be no decrease pursuant to this
12 subparagraph (J) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under. The amount of the
14 reduction in the employer contributions stipulated by this
15 subparagraph (J) shall be in addition to the amount of the reduction
16 in the employer contributions stipulated by subparagraphs (G) and
17 (H) of this paragraph (5), except that the rate of contribution of an
18 employer who has a deficit reserve ratio of negative 35.0% or under
19 shall not be reduced pursuant to this subparagraph (J) to less than
20 5.4% and the rate of contribution of any other employer shall not be
21 reduced to less than 0.0%.

22 (6) Additional contributions.

23 Notwithstanding any other provision of law, any employer who
24 has been assigned a contribution rate pursuant to subsection (c) of
25 this section for the year commencing July 1, 1948, and for any year
26 commencing July 1 thereafter, may voluntarily make payment of
27 additional contributions, and upon such payment shall receive a
28 recomputation of the experience rate applicable to such employer,
29 including in the calculation the additional contribution so made,
30 except that, following a transfer as described under R.S.43:21-
31 7(c)(7)(D), neither the predecessor nor successor in interest shall be
32 eligible to make a voluntary payment of additional contributions
33 during the year the transfer occurs and the next full calendar year.
34 Any such additional contribution shall be made during the 30-day
35 period following the date of the mailing to the employer of the
36 notice of his contribution rate as prescribed in this section, unless,
37 for good cause, the time for payment has been extended by the
38 controller for not to exceed an additional 60 days; provided that in
39 no event may such payments which are made later than 120 days
40 after the beginning of the year for which such rates are effective be
41 considered in determining the experience rate for the year in which
42 the payment is made. Any employer receiving any extended period
43 of time within which to make such additional payment and failing
44 to make such payment timely shall be, in addition to the required
45 amount of additional payment, liable for a penalty of 5% thereof or
46 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
47 under this subsection shall be made only in the form of credits
48 against accrued or future contributions.

1 (7) Transfers.

2 (A) Upon the transfer of the organization, trade or business, or
3 substantially all the assets of an employer to a successor in interest,
4 whether by merger, consolidation, sale, transfer, descent or
5 otherwise, the controller shall transfer the employment experience
6 of the predecessor employer to the successor in interest, including
7 credit for past years, contributions paid, annual payrolls, benefit
8 charges, et cetera, applicable to such predecessor employer,
9 pursuant to regulation, if it is determined that the employment
10 experience of the predecessor employer with respect to the
11 organization, trade, assets or business which has been transferred
12 may be considered indicative of the future employment experience
13 of the successor in interest. The successor in interest may, within
14 four months of the date of such transfer of the organization, trade,
15 assets or business, or thereafter upon good cause shown, request a
16 reconsideration of the transfer of employment experience of the
17 predecessor employer. The request for reconsideration shall
18 demonstrate, to the satisfaction of the controller, that the
19 employment experience of the predecessor is not indicative of the
20 future employment experience of the successor.

21 (B) An employer who transfers part of his or its organization,
22 trade, assets or business to a successor in interest, whether by
23 merger, consolidation, sale, transfer, descent or otherwise, may
24 jointly make application with such successor in interest for transfer
25 of that portion of the employment experience of the predecessor
26 employer relating to the portion of the organization, trade, assets or
27 business transferred to the successor in interest, including credit for
28 past years, contributions paid, annual payrolls, benefit charges, et
29 cetera, applicable to such predecessor employer. The transfer of
30 employment experience may be allowed pursuant to regulation only
31 if it is found that the employment experience of the predecessor
32 employer with respect to the portion of the organization, trade,
33 assets or business which has been transferred may be considered
34 indicative of the future employment experience of the successor in
35 interest. Credit shall be given to the successor in interest only for
36 the years during which contributions were paid by the predecessor
37 employer with respect to that part of the organization, trade, assets
38 or business transferred.

39 (C) A transfer of the employment experience in whole or in part
40 having become final, the predecessor employer thereafter shall not
41 be entitled to consideration for an adjusted rate based upon his or its
42 experience or the part thereof, as the case may be, which has thus
43 been transferred. A successor in interest to whom employment
44 experience or a part thereof is transferred pursuant to this
45 subsection shall, as of the date of the transfer of the organization,
46 trade, assets or business, or part thereof, immediately become an
47 employer if not theretofore an employer subject to this chapter
48 (R.S.43:21-1 et seq.).

1 (D) If an employer who transfers in whole or in part his or its
2 organization, trade, assets or business to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise and both the employer and successor in interest are at the
5 time of the transfer under common ownership, management or
6 control, then the employment experience attributable to the
7 transferred business shall also be transferred to and combined with
8 the employment experience of the successor in interest. The
9 transfer of the employment experience is mandatory and not subject
10 to appeal or protest.

11 (E) The transfer of part of an employer's employment experience
12 to a successor in interest shall become effective as of the first day of
13 the calendar quarter following the acquisition by the successor in
14 interest. As of the effective date, the successor in interest shall
15 have its employer rate recalculated by merging its existing
16 employment experience, if any, with the employment experience
17 acquired. If the successor in interest is not an employer as of the
18 date of acquisition, it shall be assigned the new employer rate until
19 the effective date of the transfer of employment experience.

20 (F) Upon the transfer in whole or in part of the organization,
21 trade, assets or business to a successor in interest, the employment
22 experience shall not be transferred if the successor in interest is not
23 an employer at the time of the acquisition and the controller finds
24 that the successor in interest acquired the business solely or
25 primarily for the purpose of obtaining a lower rate of contributions.

26 (d) Contributions of workers to the unemployment
27 compensation fund and the State disability benefits fund.

28 (1) (A) For periods after January 1, 1975, each worker shall
29 contribute to the fund 1% of his wages with respect to his
30 employment with an employer, which occurs on and after January
31 1, 1975, after such employer has satisfied the condition set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer; provided, however, that such contributions shall be at the
34 rate of 1/2 of 1% of wages paid with respect to employment while
35 the worker is in the employ of the State of New Jersey, or any
36 governmental entity or instrumentality which is an employer as
37 defined under R.S.43:21-19(h)(5), or is covered by an approved
38 private plan under the "Temporary Disability Benefits Law" or
39 while the worker is exempt from the provisions of the "Temporary
40 Disability Benefits Law" under section 7 of that law, P.L.1948,
41 c.110 (C.43:21-31).

42 (B) Effective January 1, 1978 there shall be no contributions by
43 workers in the employ of any governmental or nongovernmental
44 employer electing or required to make payments in lieu of
45 contributions unless the employer is covered by the State plan under
46 the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and
47 in that case contributions shall be at the rate of 1/2 of 1%, except
48 that commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments
2 in lieu of contributions shall be required to make contributions to
3 the fund at the same rate prescribed for workers of other
4 nongovernmental employers.

5 (C) (i) Notwithstanding the above provisions of this paragraph
6 (1), during the period starting July 1, 1986 and ending December
7 31, 1992, each worker shall contribute to the fund 1.125% of wages
8 paid with respect to his employment with a governmental employer
9 electing or required to pay contributions or nongovernmental
10 employer, including a nonprofit organization which is an employer
11 as defined under R.S.43:21-19(h)(6), regardless of whether that
12 nonprofit organization elects or is required to finance its benefit
13 costs with contributions to the fund or by payments in lieu of
14 contributions, after that employer has satisfied the conditions set
15 forth in subsection R.S.43:21-19(h) with respect to becoming an
16 employer. Contributions, however, shall be at the rate of 0.625%
17 while the worker is covered by an approved private plan under the
18 "Temporary Disability Benefits Law" while the worker is exempt
19 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
20 other provision of that law; provided that such contributions shall
21 be at the rate of 0.625% of wages paid with respect to employment
22 with the State of New Jersey or any other governmental entity or
23 instrumentality electing or required to make payments in lieu of
24 contributions and which is covered by the State plan under the
25 "Temporary Disability Benefits Law," except that, while the worker
26 is exempt from the provisions of the "Temporary Disability Benefits
27 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
28 any other provision of that law, or is covered for disability benefits
29 by an approved private plan of the employer, the contributions to
30 the fund shall be 0.125%.

31 (ii) (Deleted by amendment, P.L.1995, c.422.)

32 (D) Notwithstanding any other provisions of this paragraph (1),
33 during the period starting January 1, 1993 and ending June 30,
34 1994, each worker shall contribute to the unemployment
35 compensation fund 0.5% of wages paid with respect to the worker's
36 employment with a governmental employer electing or required to
37 pay contributions or nongovernmental employer, including a
38 nonprofit organization which is an employer as defined under
39 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
40 whether that nonprofit organization elects or is required to finance
41 its benefit costs with contributions to the fund or by payments in
42 lieu of contributions, after that employer has satisfied the conditions
43 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
44 an employer. No contributions, however, shall be made by the
45 worker while the worker is covered by an approved private plan
46 under the "Temporary Disability Benefits Law," P.L.1948, c.110
47 (C.43:21-25 et seq.) or while the worker is exempt under section 7
48 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law;

1 provided that the contributions shall be at the rate of 0.50% of
2 wages paid with respect to employment with the State of New
3 Jersey or any other governmental entity or instrumentality electing
4 or required to make payments in lieu of contributions and which is
5 covered by the State plan under the "Temporary Disability Benefits
6 Law," except that, while the worker is exempt from the provisions
7 of the "Temporary Disability Benefits Law" under section 7 of that
8 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
9 law, or is covered for disability benefits by an approved private plan
10 of the employer, no contributions shall be made to the fund.

11 Each worker shall, starting on January 1, 1996 and ending March
12 31, 1996, contribute to the unemployment compensation fund
13 0.60% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 1998 and ending
27 December 31, 1998, contribute to the unemployment compensation
28 fund 0.10% of wages paid with respect to the worker's employment
29 with a governmental employer electing or required to pay
30 contributions or nongovernmental employer, including a nonprofit
31 organization which is an employer as defined under paragraph (6)
32 of subsection (h) of R.S.43:21-19, regardless of whether that
33 nonprofit organization elects or is required to finance its benefit
34 costs with contributions to the fund or by payments in lieu of
35 contributions, after that employer has satisfied the conditions set
36 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.10% of wages paid with respect to employment with the State of
39 New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on January 1, 1999 until December
42 31, 1999, contribute to the unemployment compensation fund
43 0.15% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,
2 after that employer has satisfied the conditions set forth in
3 subsection (h) of R.S.43:21-19 with respect to becoming an
4 employer, provided that the contributions shall be at the rate of
5 0.10% of wages paid with respect to employment with the State of
6 New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on January 1, 2000 until December
9 31, 2001, contribute to the unemployment compensation fund
10 0.20% of wages paid with respect to the worker's employment with
11 a governmental employer electing or required to pay contributions
12 or nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.10% of wages paid with respect to employment with the State of
21 New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,
24 2004, contribute to the unemployment compensation fund 0.1825%
25 of wages paid with respect to the worker's employment with a
26 governmental employer electing or required to pay contributions or
27 a nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.0825% of wages paid with respect to employment with the State
36 of New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute
39 to the unemployment compensation fund 0.3825% of wages paid
40 with respect to the worker's employment with a governmental
41 employer electing or required to pay contributions or
42 nongovernmental employer, including a nonprofit organization
43 which is an employer as defined under paragraph (6) of subsection
44 (h) of R.S.43:21-19, regardless of whether that nonprofit
45 organization elects or is required to finance its benefit costs with
46 contributions to the fund or by payments in lieu of contributions,
47 after that employer has satisfied the conditions set forth in
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.0825% of wages paid with respect to employment with the State
3 of New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law
6 in this State to the contrary, withhold in trust the amount of his
7 workers' contributions from their wages at the time such wages are
8 paid, shall show such deduction on his payroll records, shall furnish
9 such evidence thereof to his workers as the division or controller
10 may prescribe, and shall transmit all such contributions, in addition
11 to his own contributions, to the office of the controller in such
12 manner and at such times as may be prescribed. If any employer
13 fails to deduct the contributions of any of his workers at the time
14 their wages are paid, or fails to make a deduction therefor at the
15 time wages are paid for the next succeeding payroll period, he alone
16 shall thereafter be liable for such contributions, and for the purpose
17 of R.S.43:21-14, such contributions shall be treated as employer's
18 contributions required from him.

19 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
20 the context clearly requires otherwise, the term "contributions" shall
21 include the contributions of workers pursuant to this section.

22 (G) (i) Each worker shall, starting on July 1, 1994, contribute to
23 the State disability benefits fund an amount equal to 0.50% of
24 wages paid with respect to the worker's employment with a
25 government employer electing or required to pay contributions to
26 the State disability benefits fund or nongovernmental employer,
27 including a nonprofit organization which is an employer as defined
28 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
29 employer is covered by an approved private disability plan or is
30 exempt from the provisions of the "Temporary Disability Benefits
31 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that
32 law (C.43:21-31) or any other provision of that law.

33 (ii) Each worker shall contribute to the State disability benefits
34 fund, in addition to any amount contributed pursuant to
35 subparagraph (i) of this paragraph (1)(G), an amount equal to,
36 during calendar year 2009, 0.09%, and during calendar year 2010
37 and each subsequent calendar year, 0.12%, of wages paid with
38 respect to the worker's employment with any covered employer,
39 including a governmental employer which is an employer as defined
40 under R.S.43:21-19(h)(5), unless the employer is covered by an
41 approved private disability plan for benefits during periods of
42 family temporary disability leave. The contributions made pursuant
43 to this subparagraph (ii) to the State disability benefits fund shall be
44 deposited into an account of that fund reserved for the payment of
45 benefits during periods of family temporary disability leave as
46 defined in section 3 of the "Temporary Disability Benefits Law,"
47 P.L.1948, c.110 (C.43:21-27) and for the administration of those
48 payments and shall not be used for any other purpose. This account

1 shall be known as the "Family Temporary Disability Leave
 2 Account." Necessary administrative costs shall include the cost of
 3 an outreach program to inform employees of the availability of the
 4 benefits and the cost of issuing the reports required or permitted
 5 pursuant to section 13 of P.L. , c. (C.) (pending before the
 6 Legislature as this bill). No monies, other than the funds in the
 7 "Family Temporary Disability Leave Account," shall be used for
 8 the payment of benefits during periods of family ²temporary²
 9 disability leave or for the administration of those payments, with
 10 the sole exception that, during calendar years 2008 and 2009, a total
 11 amount not exceeding \$25 million may be transferred to that
 12 account from the revenues received in the State disability benefits
 13 fund pursuant to subparagraph (i) of this paragraph (1)(G) and be
 14 expended for those payments and their administration, including the
 15 administration of the collection of contributions made pursuant to
 16 this subparagraph (ii) and any other necessary administrative costs.
 17 Any amount transferred to the account pursuant to this
 18 subparagraph (ii) shall be repaid during a period beginning not later
 19 than January 1, 2011 and ending not later than December 31, 2015.
 20 No monies, other than the funds in the "Family Temporary
 21 Disability Leave Account," shall be used under any circumstances
 22 after December 31, 2009, for the payment of benefits during periods
 23 of family temporary disability leave or for the administration of
 24 those payments, including for the administration of the collection of
 25 contributions made pursuant to this subparagraph (ii).

26 (2) (A) (Deleted by amendment, P.L.1984, c.24.)

27 (B) (Deleted by amendment, P.L.1984, c.24.)

28 (C) (Deleted by amendment, P.L.1994, c.112.)

29 (D) (Deleted by amendment, P.L.1994, c.112.)

30 (E) (i) (Deleted by amendment, P.L.1994, c.112.)

31 (ii) (Deleted by amendment, P.L.1996, c.28.)

32 (iii) (Deleted by amendment, P.L.1994, c.112.)

33 (3) If an employee receives wages from more than one employer
 34 during any calendar year, and either the sum of his contributions
 35 deposited in and credited to the State disability benefits fund plus
 36 the amount of his contributions, if any, required towards the costs
 37 of benefits under one or more approved private plans under the
 38 provisions of section 9 of the "Temporary Disability Benefits Law"
 39 (C.43:21-33) and deducted from his wages, or the sum of such latter
 40 contributions, if the employee is covered during such calendar year
 41 only by two or more private plans, exceeds an amount equal to 1/2
 42 of 1% of the "wages" determined in accordance with the provisions
 43 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
 44 January 1, 1976, the employee shall be entitled to a refund of the
 45 excess if he makes a claim to the controller within two years after
 46 the end of the calendar year in which the wages are received with
 47 respect to which the refund is claimed and establishes his right to
 48 such refund. Such refund shall be made by the controller from the

1 State disability benefits fund. No interest shall be allowed or paid
2 with respect to any such refund. The controller shall, in accordance
3 with prescribed regulations, determine the portion of the aggregate
4 amount of such refunds made during any calendar year which is
5 applicable to private plans for which deductions were made under
6 section 9 of the "Temporary Disability Benefits Law" (C.43:21-33)
7 such determination to be based upon the ratio of the amount of such
8 wages exempt from contributions to such fund, as provided in
9 subparagraph (B) of paragraph (1) of this subsection with respect to
10 coverage under private plans, to the total wages so exempt plus the
11 amount of such wages subject to contributions to the disability
12 benefits fund, as provided in subparagraph (G) of paragraph (1) of
13 this subsection. The controller shall, in accordance with prescribed
14 regulations, prorate the amount so determined among the applicable
15 private plans in the proportion that the wages covered by each plan
16 bear to the total private plan wages involved in such refunds, and
17 shall assess against and recover from the employer, or the insurer if
18 the insurer has indemnified the employer with respect thereto, the
19 amount so prorated. The provisions of R.S.43:21-14 with respect to
20 collection of employer contributions shall apply to such
21 assessments. The amount so recovered by the controller shall be
22 paid into the State disability benefits fund.

23 (4) If an individual does not receive any wages from the
24 employing unit which for the purposes of this chapter (R.S.43:21-1
25 et seq.) is treated as his employer, or receives his wages from some
26 other employing unit, such employer shall nevertheless be liable for
27 such individual's contributions in the first instance; and after
28 payment thereof such employer may deduct the amount of such
29 contributions from any sums payable by him to such employing
30 unit, or may recover the amount of such contributions from such
31 employing unit, or, in the absence of such an employing unit, from
32 such individual, in a civil action; provided proceedings therefor are
33 instituted within three months after the date on which such
34 contributions are payable. General rules shall be prescribed
35 whereby such an employing unit may recover the amount of such
36 contributions from such individuals in the same manner as if it were
37 the employer.

38 (5) Every employer who has elected to become an employer
39 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
40 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
41 the provisions of R.S.43:21-8, shall post and maintain printed
42 notices of such election on his premises, of such design, in such
43 numbers, and at such places as the director may determine to be
44 necessary to give notice thereof to persons in his service.

45 (6) Contributions by workers, payable to the controller as herein
46 provided, shall be exempt from garnishment, attachment, execution,
47 or any other remedy for the collection of debts.

48 (e) Contributions by employers to State disability benefits fund.

1 (1) Except as hereinafter provided, each employer shall, in
2 addition to the contributions required by subsections (a), (b), and
3 (c) of this section, contribute 1/2 of 1% of the wages paid by such
4 employer to workers with respect to employment unless he is not a
5 covered employer as defined in section 3 of the "Temporary
6 Disability Benefits Law" (C.43:21-27 (a)), except that the rate for
7 the State of New Jersey shall be 1/10 of 1% for the calendar year
8 1980 and for the first six months of 1981. Prior to July 1, 1981 and
9 prior to July 1 each year thereafter, the controller shall review the
10 experience accumulated in the account of the State of New Jersey
11 and establish a rate for the next following fiscal year which, in
12 combination with worker contributions, will produce sufficient
13 revenue to keep the account in balance; except that the rate so
14 established shall not be less than 1/10 of 1%. Such contributions
15 shall become due and be paid by the employer to the controller for
16 the State disability benefits fund as established by law, in
17 accordance with such regulations as may be prescribed, and shall
18 not be deducted, in whole or in part, from the remuneration of
19 individuals in his employ. In the payment of any contributions, a
20 fractional part of a cent shall be disregarded unless it amounts to
21 \$0.005 or more, in which case it shall be increased to \$0.01.

22 (2) During the continuance of coverage of a worker by an
23 approved private plan of disability benefits under the "Temporary
24 Disability Benefits Law," the employer shall be exempt from the
25 contributions required by subparagraph (1) above with respect to
26 wages paid to such worker.

27 (3) (A) The rates of contribution as specified in subparagraph
28 (1) above shall be subject to modification as provided herein with
29 respect to employer contributions due on and after July 1, 1951.

30 (B) A separate disability benefits account shall be maintained for
31 each employer required to contribute to the State disability benefits
32 fund and such account shall be credited with contributions
33 deposited in and credited to such fund with respect to employment
34 occurring on and after January 1, 1949. Each employer's account
35 shall be credited with all contributions paid on or before January 31
36 of any calendar year on his own behalf and on behalf of individuals
37 in his service with respect to employment occurring in preceding
38 calendar years; provided, however, that if January 31 of any
39 calendar year falls on a Saturday or Sunday an employer's account
40 shall be credited as of January 31 of such calendar year with all the
41 contributions which he has paid on or before the next succeeding
42 day which is not a Saturday or Sunday. But nothing in this act shall
43 be construed to grant any employer or individuals in his service
44 prior claims or rights to the amounts paid by him to the fund either
45 on his own behalf or on behalf of such individuals. Benefits paid to
46 any covered individual in accordance with Article III of the
47 "Temporary Disability Benefits Law" on or before December 31 of
48 any calendar year with respect to disability in such calendar year

1 and in preceding calendar years shall be charged against the account
2 of the employer by whom such individual was employed at the
3 commencement of such disability or by whom he was last
4 employed, if out of employment.

5 (C) The controller may prescribe regulations for the
6 establishment, maintenance, and dissolution of joint accounts by
7 two or more employers, and shall, in accordance with such
8 regulations and upon application by two or more employers to
9 establish such an account, or to merge their several individual
10 accounts in a joint account, maintain such joint account as if it
11 constituted a single employer's account.

12 (D) Prior to July 1 of each calendar year, the controller shall
13 make a preliminary determination of the rate of contribution for the
14 12 months commencing on such July 1 for each employer subject to
15 the contribution requirements of this subsection (e).

16 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the
17 preceding January 31 of such year such employer shall have been a
18 covered employer who has paid contributions to the State disability
19 benefits fund with respect to employment in the three calendar
20 years immediately preceding such year.

21 (2) If the minimum requirements in (1) above have been
22 fulfilled and the credited contributions exceed the benefits charged
23 by more than \$500.00, such preliminary rate shall be as follows:

24 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
25 less than $1\frac{1}{4}\%$ of his average annual payroll as defined in this
26 chapter (R.S.43:21-1 et seq.);

27 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
28 $1\frac{1}{4}\%$ but is less than $1\frac{1}{2}\%$ of his average annual payroll;

29 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}\%$ of his average annual payroll.

31 (3) If the minimum requirements in (1) above have been
32 fulfilled and the contributions credited exceed the benefits charged
33 but by not more than \$500.00 plus 1% of his average annual
34 payroll, or if the benefits charged exceed the contributions credited
35 but by not more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of
36 1%.

37 (4) If the minimum requirements in (1) above have been
38 fulfilled and the benefits charged exceed the contributions credited
39 by more than \$500.00, such preliminary rate shall be as follows:

40 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
41 1% of his average annual payroll;

42 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
43 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

44 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
45 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

46 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
47 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

1 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
2 1% of his average annual payroll.

3 (5) Determination of the preliminary rate as specified in (2), (3)
4 and (4) above shall be subject, however, to the condition that it
5 shall in no event be decreased by more than 1/10 of 1% of wages or
6 increased by more than 2/10 of 1% of wages from the preliminary
7 rate determined for the preceding year in accordance with (1), (2),
8 (3) or (4), whichever shall have been applicable.

9 (E) (1) Prior to July 1 of each calendar year the controller shall
10 determine the amount of the State disability benefits fund as of
11 December 31 of the preceding calendar year, increased by the
12 contributions paid thereto during January of the current calendar
13 year with respect to employment occurring in the preceding
14 calendar year. If such amount exceeds the net amount withdrawn
15 from the unemployment trust fund pursuant to section 23 of the
16 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
17 plus the amount at the end of such preceding calendar year of the
18 unemployment disability account as defined in section 22 of said
19 law (C.43:21-46), such excess shall be expressed as a percentage of
20 the wages on which contributions were paid to the State disability
21 benefits fund on or before January 31 with respect to employment
22 in the preceding calendar year.

23 (2) The controller shall then make a final determination of the
24 rates of contribution for the 12 months commencing July 1 of such
25 year for employers whose preliminary rates are determined as
26 provided in (D) hereof, as follows:

27 (i) If the percentage determined in accordance with paragraph
28 (E)(1) of this subsection equals or exceeds 1 1/4%, the final
29 employer rates shall be the preliminary rates determined as
30 provided in (D) hereof, except that if the employer's preliminary
31 rate is determined as provided in (D)(2) or (D)(3) hereof, the final
32 employer rate shall be the preliminary employer rate decreased by
33 such percentage of excess taken to the nearest 5/100 of 1%, but in
34 no case shall such final rate be less than 1/10 of 1%.

35 (ii) If the percentage determined in accordance with paragraph
36 (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less
37 than 1 1/4 of 1%, the final employer rates shall be the preliminary
38 employer rates.

39 (iii) If the percentage determined in accordance with paragraph
40 (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4
41 of 1%, the final employer rates shall be the preliminary employer
42 rates determined as provided in (D) hereof increased by the
43 difference between 3/4 of 1% and such percentage taken to the
44 nearest 5/100 of 1%; provided, however, that no such final rate
45 shall be more than 1/4 of 1% in the case of an employer whose
46 preliminary rate is determined as provided in (D)(2) hereof, more
47 than 1/2 of 1% in the case of an employer whose preliminary rate is
48 determined as provided in (D)(1) and (D)(3) hereof, nor more than

1 3/4 of 1% in the case of an employer whose preliminary rate is
2 determined as provided in (D)(4) hereof.

3 (iv) If the amount of the State disability benefits fund determined
4 as provided in paragraph (E)(1) of this subsection is equal to or less
5 than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case of
6 an employer whose preliminary rate is determined as provided in
7 (D)(2) hereof, 7/10 of 1% in the case of an employer whose
8 preliminary rate is determined as provided in (D)(1) and (D)(3)
9 hereof, and 1.1% in the case of an employer whose preliminary rate
10 is determined as provided in (D)(4) hereof. Notwithstanding any
11 other provision of law or any determination made by the controller
12 with respect to any 12-month period commencing on July 1, 1970,
13 the final rates for all employers for the period beginning January 1,
14 1971, shall be as set forth herein.

15 (F) Notwithstanding any other provisions of this subsection (e),
16 the rate of contribution paid to the State disability benefits fund by
17 each covered employer as defined in paragraph (1) of subsection (a)
18 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
19 if:

20 (i) No disability benefits have been paid with respect to periods
21 of family temporary disability leave; ²[and]²

22 (ii) No worker paid any contributions to the State disability
23 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
24 this section²; and

25 (3) No amounts were transferred from the State disability
26 benefits funds to the "Family Temporary Disability Leave Account"
27 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section².

28 (cf: P.L.2005, c.249, s.1)

29

30 16. (New Section) Gross income shall not include benefits for
31 family temporary disability leave paid pursuant to P.L.1948, c.110
32 (C.43:21-25 et seq.) and P.L.____,c.____.(C._____) (pending
33 before the Legislature as this bill).

34

35 17. This act shall take effect immediately.